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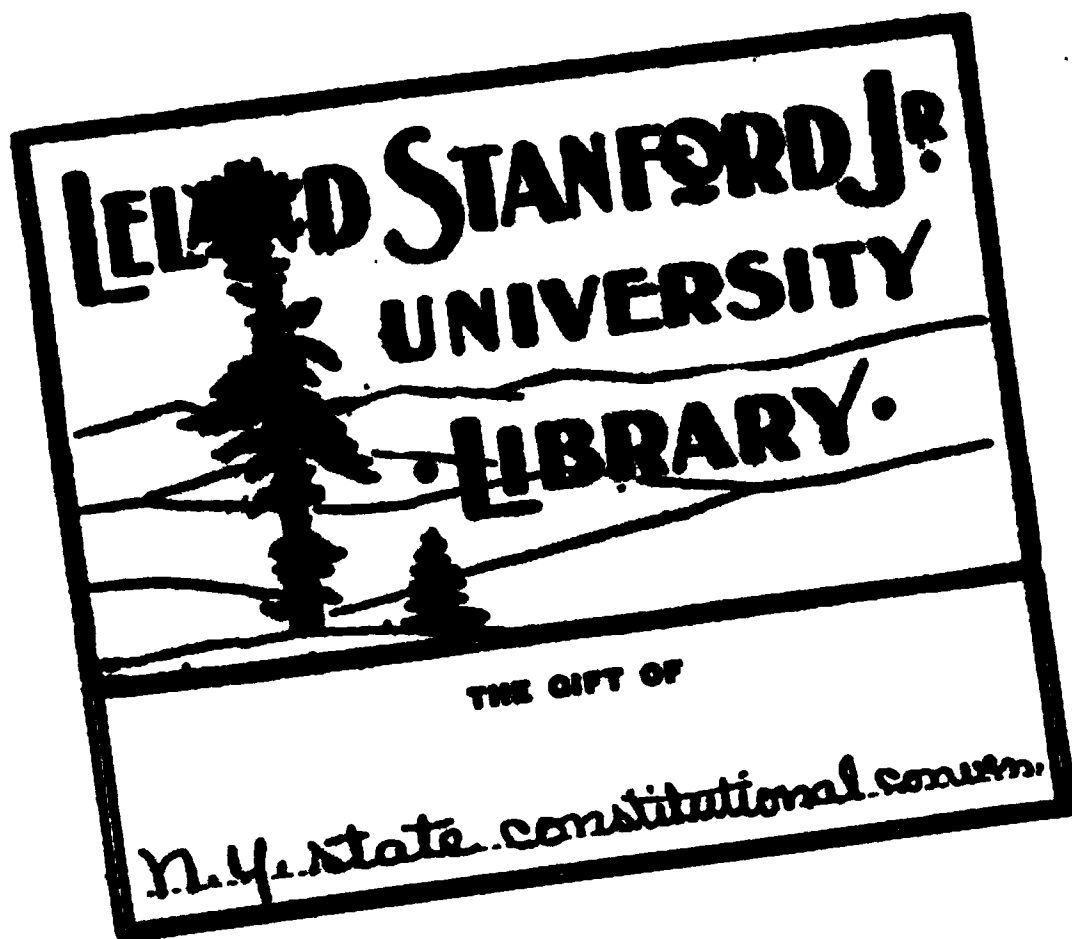
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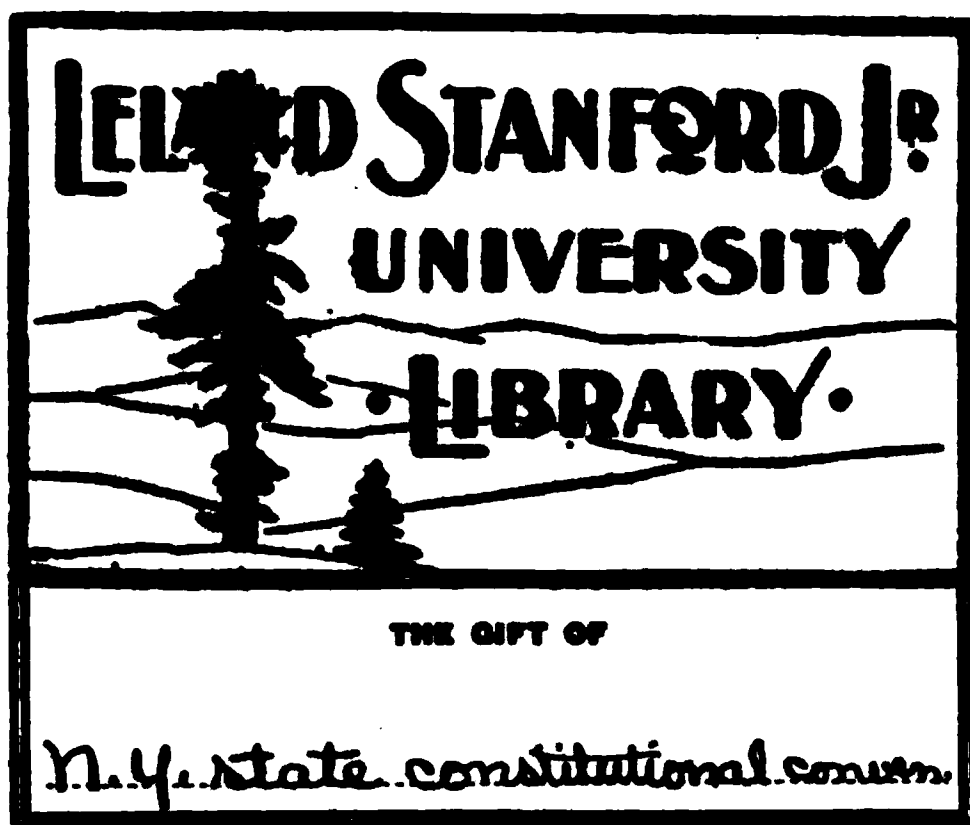
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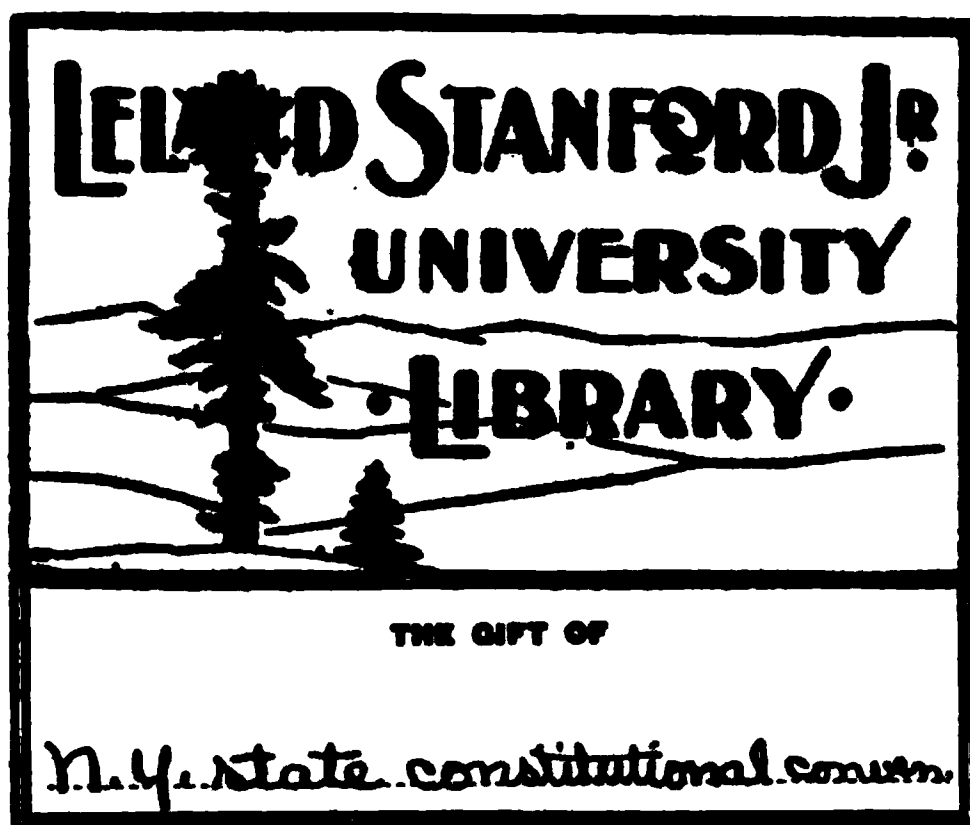
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Mr. Hale, Mr. Franchot, Mr. Bockes, Mr. C. Nicoll, Mr. Pelletreau, Mr. Angell, Mr. Bayes, Mr. Blauvelt, Mr. Dykman, Mr. Baldwin, Mr. F. Martin, Mr. Donnelly.

**6. Judiciary** — Mr. Wickersham, *Chairman*. Mr. Brackett, Mr. Marshall, Mr. Gladding, Mr. Stimson, Mr. Clearwater, Mr. Rodenbeck, Mr. Dunmore, Mr. Steinbrink, Mr. C. H. Young, Mr. Sears, Mr. Cobb, Mr. Delancey Nicoll, Mr. Stanchfield, Mr. Sheehan, Mr. Dykman, Mr. Wagner.

**7. On the State Finances, Revenues and Expenditures** — Mr. Stimson, *Chairman*. Mr. Hinman, Mr. Low, Mr. Pelletreau, Mr. Parsons, Mr. Lincoln, Mr. Lennox, Mr. Van Ness, Mr. Austin, Mr. Beach, Mr. Bannister, Mr. Dick, Mr. Wagner, Mr. Potter, Mr. Stanchfield, Mr. Delancey Nicoll, Mr. Slevin.

**8. Cities** — Mr. Low, *Chairman*. Mr. John Lord O'Brian, Mr. Berri, Mr. Fobes, Mr. E. N. Smith, Mr. Latson, Mr. Green, Mr. Wiggins, Mr. Franchot, Mr. V. M. Allen, Mr. Sanders, Mr. C. Nicoll, Mr. Foley, Mr. T. F. Smith, Mr. Baldwin, Mr. Weed, Mr. Shipman.

**9. Canals** — Mr. Clinton, *Chairman*. Mr. Cullinan, Mr. Landreth, Mr. Tuck, Mr. Lindsay, Mr. Wiggins, Mr. R. B. Smith, Mr. Green, Mr. Fogarty, Mr. Griffin, Mr. O'Connor.

**10. Public Utilities** — Mr. Hale, *Chairman*. Mr. Oleott, Mr. Westwood, Mr. Brenner, Mr. Mandeville, Mr. Deyo, Mr. Reeves, Mr. Nye, Mr. Sanders, Mr. Fancher, Mr. Kirby, Mr. Mathewson, Mr. McLean, Mr. Potter, Mr. Blauvelt, Mr. Foley, Mr. Dooling.

**11. Counties, Towns and Villages, their Organization, Government, etc.** — Mr. John Lord O'Brian, *Chairman*. Mr. Sharpe, Mr. Coles, Mr. F. L. Young, Mr. Quigg, Mr. Parmenter, Mr. Vanderlyn, Mr. Johnson, Mr. Heaton, Mr. Betts, Mr. Lincoln, Mr. L. M. Martin, Mr. Slevin, Mr. Donnelly, Mr. C. A. Webber, Mr. Schoonhut, Mr. Eppig.

**12. County, Town and Village Officers** — Mr. Mereness, *Chairman*. Mr. Tuck, Mr. Ryder, Mr. Rosch, Mr. Standart, Mr. Greff, Mr. Ford, Mr. Barrett, Mr. Linde, Mr. Parker, Mr. Buxbaum, Mr. Haffen, Mr. Daly, Mr. Wafer, Mr. Endres, Mr. Bernstein, Mr. J. J. White.

**13. Prisons, etc., and the Prevention and Punishment of Crime** — Mr. Clearwater, *Chairman*. Mr. Ostrander, Mr. McKinney, Mr. Owen, Mr. Bell, Mr. Winslow, Mr. Adams, Mr. Drummond, Mr. Leitner, Mr. Daly, Mr. Harowitz.

**14. Corporations** — Mr. Brenner, *Chairman*. Mr. Fancher, Mr. McKean, Mr. Wood, Mr. Doughty, Mr. Gladding, Mr. Bunce, Mr. Adams, Mr. Rosch, Mr. Jones, Mr. Williams, Mr. Law, Mr. Frank, Mr. Kirk, Mr. Mann, Mr. Donovan, Mr. Heyman.

**15. Banking and Insurance** — Mr. Fobes, *Chairman*. Mr. Beach, Mr. Jesse Phillips, Mr. Wheeler, Mr. Leggett, Mr. Van Ness, Mr. McKean, Mr. Richards, Mr. Mulry, Mr. Ryan, Mr. Harowitz.

**16. Militia and Military Affairs** — Mr. Latson, *Chairman*. Mr. Westwood, Mr. Dennis, Mr. Parker, Mr. McLean, Mr. Griffin, Mr. Byrne.

**17. Education** — Mr. Schurman, *Chairman*. Mr. Clearwater, Mr. Vanderlyn, Mr. Sargent, Mr. S. K. Phillips, Mr. Mandeville, Mr. Ryder, Mr. Mealy, Mr. Lennox, Mr. Law, Mr. Baumes, Mr. McKinney, Mr. Shipman, Mr. Potter, Mr. Ward, Mr. J. J. White, Mr. Donovan.

**18. Charities** — Mr. Wadsworth, *Chairman*. Mr. Stowell, Mr. Waterman, Mr. Parmenter, Mr. Johnson, Mr. Wiggins, Mr. Doughty, Mr. Wood, Mr. Sargent, Mr. Bell, Mr. F. C. Allen, Mr. Mulry, Mr. Leitner, Mr. Drummond, Mr. T. F. Smith, Mr. Newburger, Mr. Eisner.

**19. Industrial Interests and Relations** — Mr. Parsons, *Chairman*. Mr. Low, Mr. Curran, Mr. Berri, Mr. Parmenter, Mr. Frauchot, Mr. Mandeville, Mr. Eggleston, Mr. C. Nicoll, Mr. Jones, Mr. Leggett, Mr. R. E. Weber, Mr. O'Connor, Mr. A. E. Smith, Mr. Fogarty, Mr. Dahm, Mr. Unger.

**20. Conservation of Natural Resources** — Mr. Dow, *Chairman*. Mr. E. N. Smith, Mr. Clinton, Mr. Marshall, Mr. Whipple, Mr. Rhees, Mr. Landreth, Mr. Meigs, Mr. Austin, Mr. Bannister, Mr. Angell, Mr. Dunlap, Mr. Baldwin, Mr. Morgan J. O'Brien, Mr. Leary, Mr. Blauvelt, Mr. J. G. Saxe.

**21. Relations to the Indians** — Mr. Lindsay, *Chairman*. Mr. Whipple, Mr. Meigs, Mr. R. B. Smith, Mr. Shipman, Mr. Schoonhut, Mr. Endres.

**22. Future Amendments and Revisions of the Constitution** — Mr. Hinman, *Chairman*. Mr. F. L. Young, Mr. Sharpe, Mr. Heaton, Mr. C. J. White, Mr. F. Martin, Mr. Ward.

**23. Revision and Engrossment** — Mr. Rodenbeck, *Chairman*. Mr. Quigg, Mr. Ostrander, Mr. Betts, Mr. Bayes, Mr. Newburger, Mr. Leary.

**24. Privileges and Elections** — Mr. C. H. Young, *Chairman*. Mr. Brenner, Mr. Bunce, Mr. Cobb, Mr. Dunlap, Mr. F. C. Allen, Mr. Tierney, Mr. Richards, Mr. Burkan, Mr. Heyman, Mr. Byrne.

**25. Printing** — Mr. Berri, *Chairman*. Mr. Betts, Mr. Nixon, Mr. Mereness, Mr. Beach, Mr. McLean, Mr. Dahm.

**26. Contingent Expenses** — Mr. S. K. Phillips, *Chairman*. Mr. Fobes, Mr. Sears, Mr. Sharpe, Mr. Bell, Mr. Mulry, Mr. Dykman.

**27. Rules** — Mr. John Lord O'Brian, *Chairman*. Mr. Hale, Mr. Barnes, Mr. Parsons, Mr. Delancey Nicoll, Mr. Sheehan, Mr. Wagner.

**28. Civil Service** — Mr. Rhees, *Chairman*. Mr. S. K. Phillips, Mr. Wickersham, Mr. Dow, Mr. Dunmore, Mr. Deyo, Mr. Nixon, Mr. Dick, Mr. Coles, Mr. McKean, Mr. Aiken, Mr. Winslow, Mr. Weed, Mr. Richards, Mr. Unger, Mr. Eisner, Mr. Mann.

**29. Library and Information** — Mr. Jesse Phillips, *Chairman*. Mr. Wickersham, Mr. Rodenbeck, Mr. Wood, Mr. Morgan J. O'Brien, Mr. Stanchfield, Mr. Leitner.

**30. Taxation** — Mr. Martin Saxe, *Chairman*. Mr. Ostrander, Mr. Steinbrink, Mr. Greff, Mr. Nixon, Mr. McKinney, Mr. Leggett, Mr. Standart, Mr. Ryder, Mr. Barrett, Mr. Mathewson, Mr. V. M. Allen, Mr. Unger, Mr. Ryan, Mr. Eppig, Mr. C. A. Weber, Mr. Wafer.

# STATE OF NEW YORK

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# IN CONVENTION

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## DOCUMENT

**No. 2**

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### NAMES AND POST-OFFICE ADDRESSES OF DELEGATES TO CONSTITUTIONAL CONVENTION

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#### DELEGATES-AT-LARGE

Name	P. O. Address
Berri, William.....	465 Clinton Ave., Brooklyn.
Brackett, Edgar Truman.	Saratoga Spa, N. Y.
Brenner, Jacob.....	252 Carroll St., Brooklyn.
Clearwater, Alphonso P.	Kingston, N. Y.
Cullinan, Patrick W....	Oswego, N. Y.
Low, Seth.....	30 E. 64th St., New York City.
Marshall, Louis.....	47 E. 72d St., New York City.
O'Brian, John Lord....	Buffalo, N. Y.
Parsons, Herbert.....	115 E. 72d St., New York City.
Rodenbeck, Adolph J....	Rochester, N. Y.
Root, Elihu .....	1 E. 81st St., New York City.
Schurman, Jacob Gould..	Ithaca, N. Y.
Stimson, Henry L.....	275 Lexington Ave., New York City.
Wickersham, George W..	Cedarhurst, L. I.
Young, Charles H.....	New Rochelle, N. Y.

**DISTRICT DELEGATES****FIRST SENATE DISTRICT**

Name	P. O. Address
Pelletreau, Robert S....	Patchogue, N. Y.
Coles, Franklin A.....	Glen Cove, N. Y.
McKinney, William M...	Northport, N. Y.

**SECOND SENATE DISTRICT**

Frank, Philip.....	Bridge Plaza, Long Island City.
Ryan, George J.....	236 Lincoln St., Flushing, L. I.
Weed, John W.....	61 Sanford Ave., Flushing, L. I.

**THIRD SENATE DISTRICT**

McLean, Andrew.....	284 Carlton Ave., Brooklyn, N. Y.
Webber, Charles A.....	172 Congress St., Brooklyn, N. Y.
Wafer, Moses J.....	319 Clinton St., Brooklyn, N. Y.

**FOURTH SENATE DISTRICT**

Adams, Floyd J.....	88 Ross St., Brooklyn, N. Y.
Weber, Richard E.....	46 Sumner Ave., Brooklyn, N. Y.
Buxbaum, Isidor .....	266 Van Buren St., Brooklyn, N. Y.

**FIFTH SENATE DISTRICT**

Dahm, James H.....	462 55th St., Brooklyn, N. Y.
Byrne, Edward J.....	28 Eighth Ave., Brooklyn, N. Y.
Daly, Michael .....	312 Prospect Park West, Brooklyn, N. Y.

**SIXTH SENATE DISTRICT**

Reeves, Alfred G.....	148 St. John's Place, Brooklyn, N. Y.
Steinbrink, Meier .....	18 Fuller Place, Brooklyn, N. Y.
Bannister, William P...	109 Cambridge Pl., Brooklyn, N. Y.

**SEVENTH SENATE DISTRICT**

Fogarty, Michael.....	119 Russell St., Brooklyn, N. Y.
Ward, Francis P.....	436 Humboldt St., Brooklyn, N. Y.
Dykman, William N.....	171 Washington Park, Brooklyn, N. Y.

## EIGHTH SENATE DISTRICT

Name	P. O. Address
Bayes, William R.....	1551 East 10th St., Brooklyn, N. Y.
Latson, Almet R.....	250 Jefferson Ave., Brooklyn, N. Y.
Doughty, Edgar M.....	131 Lennox Row, Brooklyn, N. Y.

## NINTH SENATE DISTRICT

Eppig, Theodore C.....	28 Linden St., Brooklyn, N. Y.
Mann, Frank.....	62 Suydam St., Brooklyn, N. Y.
Heyman, Harry.....	321 Lorimer St., Brooklyn, N. Y.

## TENTH SENATE DISTRICT

Sargent, Isaac .....	914 Herkimer St., Brooklyn, N. Y.
Mathewson, William F...	41 Granite St., Brooklyn, N. Y.
Linde, Joseph.....	226 Linden St., Brooklyn, N. Y.

## ELEVENTH SENATE DISTRICT

Ahearn, John F.....	290 E. Broadway, New York City.
Smith, Alfred E.....	25 Oliver St., New York City.
Harawitz, Abraham.....	110 Forsyth St., New York City.

## TWELFTH SENATE DISTRICT

White, John J.....	219 East 12th St., New York City.
O'Brien, Morgan J.....	729 Park Ave., New York City.
Newburger, Harry W....	17 Livingston Pl., New York City.

## THIRTEENTH SENATE DISTRICT

Drummond, Michael J...	435 Riverside Drive, New York City.
Stanchfield, John B....	Hotel Vanderbilt, New York City.
Baldwin, Arthur J.....	35 Fifth Ave., New York City.

## FOURTEENTH SENATE DISTRICT

Foley, James A.....	316 East 18th St., New York City.
Nicoll, Delancey.....	23 East 39th St., New York City.
Kirk, Hiram M.....	136 East 49th St., New York City.

## FIFTEENTH SENATE DISTRICT

Smith, Thomas F.....	880 West End Ave., New York City.
Sheehan, William F....	16 East 56th St., New York City.
Mulry, Thomas M.....	10 Perry St., New York City.



## SIXTEENTH SENATE DISTRICT

Name	P. O. Address
Wagner, Robert F. . . . .	244 East 86th St., New York City.
Dooling, John T. . . . .	179 East 80th St., New York City.
Saxe, John G. . . . .	166 West 72d St., New York City.

## SEVENTEENTH SENATE DISTRICT

Tanner, Frederick C. . . . .	12 Gramercy Park, New York City.
Nicoll, Courtlandt. . . . .	405 Park Ave., New York City.
Bell, Gordon Knox. . . . .	58 East 72d St., New York City.

## EIGHTEENTH SENATE DISTRICT

Eisner, Mark . . . . .	243 West 98th St., New York City.
Olcott, William M. K. . . . .	58 West 84th St., New York City.
Saxe, Martin . . . . .	313 West 82d St., New York City.

## NINETEENTH SENATE DISTRICT

Shipman, Andrew J. . . . .	636 West 158th St., New York City.
Bernstein, J. Sidney. . . . .	1980 Seventh Ave., New York City.
Unger, Albert Blogg. . . . .	139 West 130th St., New York City.

## TWENTIETH SENATE DISTRICT

Leary, Timothy A. . . . .	144 East 89th St., New York City.
Burkan, Nathan . . . . .	25 East 99th St., New York City.
Potter, Mark W. . . . .	417 Riverside Drive, New York City.

## TWENTY-FIRST SENATE DISTRICT

Donovan, Peter . . . . .	465 East 144th St., Bronx, New York City.
Donnelly, James F. . . . .	1432 Glover St., Bronx, New York City.
Slevin, William F. . . . .	30 East 130th St., New York City.

## TWENTY-SECOND SENATE DISTRICT

Martin, Francis. . . . .	2150 University Ave., Bronx, New York City.
Haffen, Louis J. . . . .	308 East 162d St., Bronx, New York City.
Griffin, Anthony J. . . . .	891 Cauldwell Ave., New York City.

### TWENTY-THIRD SENATE DISTRICT

Name	P. O. Address
Blauvelt, George A.....	Monsey, N. Y.
Leitner, George A.....	Nyack, N. Y.
Richards, Eugene Lamb.	Prospect Ave., New Brighton, N. Y.

### TWENTY-FOURTH SENATE DISTRICT

Winslow, Francis A.....	Yonkers, N. Y.
Young, Frank L.....	Ossining, N. Y.
Barrett, Henry R.....	White Plains, N. Y.

### TWENTY-FIFTH SENATE DISTRICT

Baumes, Caleb H.....	67 Farrington St., Newburgh, N. Y.
Wiggins, Russell .....	Middletown, N. Y.
Rosch, Joseph .....	Liberty, N. Y.

### TWENTY-SIXTH SENATE DISTRICT

Phillips, Samuel K.....	Beacon, N. Y.
Ryder, Clayton .....	Carman, N. Y.
Quigg, Lemuel E.....	Austerlitz, N. Y.

### TWENTY-SEVENTH SENATE DISTRICT

Sharpe, Severyn B.....	Albany Ave., Kingston, N. Y.
Vanderlyn, John N.....	New Paltz, N. Y.
Austin, H. Leroy.....	Catskill, N. Y.

### TWENTY-EIGHTH SENATE DISTRICT

Barnes, William .....	Guilderland, N. Y.
Hinman, Harold J.....	Albany, N. Y.
Mealy, Edward A.....	Cohoes, N. Y.

### TWENTY-NINTH SENATE DISTRICT

Heaton, Willis E.....	Hoosick Falls, N. Y.
Allen, Victor M.....	Petersburgh, N. Y.
McKean, Andrew P.....	Troy, N. Y.

## THIRTIETH SENATE DISTRICT

Name	P. O. Address
Law, Robert R. . . . .	Cambridge, N. Y.
Ostrander, William S. . .	Schuylerville, N. Y.
Dennis, Otis A. . . . .	Whitehall, N. Y.

## THIRTY-FIRST SENATE DISTRICT

Landreth, Olin Henry. . . .	College Grounds, Schenectody.
Van Ness, Seward H. . .	Cobleskill, N. Y.
Dunlap, W. Barlow. . . . .	149 Market St., Amsterdam, N. Y.

## THIRTY-SECOND SENATE DISTRICT

Bunce, George H. . . . .	Herkimer, N. Y.
Williams, Perry G. . . . .	Lowville, N. Y.
Mereness, Charles S. . . . .	Lowville, N. Y.

## THIRTY-THIRD SENATE DISTRICT

Angell, Edward M. . . . .	245 Glen St., Glens Falls, N. Y.
Owen, Harry E. . . . .	Port Henry, N. Y.
Tierney, Patrick J. . . . .	23 Couch St., Plattsburgh, N. Y.

## THIRTY-FOURTH SENATE DISTRICT

Meigs, Ferris J. . . . .	Tupper Lake, N. Y.
Waterman, Robert S. . . . .	36 Green St., Ogdensburg, N. Y.
Hale, Ledyard P. . . . .	Canton, N. Y.

## THIRTY-FIFTH SENATE DISTRICT

Smith, Edward N. . . . .	162 Clinton St., Watertown, N. Y.
Stowell, Merrick . . . . .	165 East 6th St., Oswego, N. Y.
Ford, Lewis H. . . . .	Clayton, N. Y.

## THIRTY-SIXTH SENATE DISTRICT

Dunmore, Watson T. . . . .	75 Rutgers St., Utica, N. Y.
Martin, Louis M. . . . .	Clinton, N. Y.
Beach, Samuel H. . . . .	124 W. Dominick St., Rome, N. Y.

## THIRTY-SEVENTH SENATE DISTRICT

Bockes, George L. . . . .	Oneonta, N. Y.
Gladding, Albert F. . . . .	Norwich, N. Y.
Lennox, Frank R. . . . .	Chittenango, N. Y.

## THIRTY-EIGHTH SENATE DISTRICT

Name	P. O. Address
Fobes, Alan C.....	1237 James St., Syracuse, N. Y.
Smith, Ray B.....	1200 East Genesee St., Syracuse.
Cobb, D. Raymond.....	109 College Pl., Syracuse, N. Y.

## THIRTY-NINTH SENATE DISTRICT

Green, George E.....	17 Frederick St., Binghamton, N. Y.
Deyo, Israel T.....	32 North St., Binghamton, N. Y.
Fancher, Samuel H.....	83 North St., Walton, N. Y.

## FORTIETH SENATE DISTRICT

Aiken, E. Clarence.....	Owasco, N. Y.
Eggleston, Joseph E.....	Cortland, N. Y.
Allen, Francis C.....	Ovid, N. Y.

## FORTY-FIRST SENATE DISTRICT

Parker, John M.....	113 Front St., Owego, N. Y.
Mandeville, Hubert C...	509 West Church St., Elmira, N. Y.
Nye, Bertrand W.....	404 Madison Ave., Watkins, N. Y.

## FORTY-SECOND SENATE DISTRICT

Parmenter, John .....	Geneva, N. Y.
Johnson, John H.....	Penn Yan, N. Y.
Betts, Charles H.....	Lyons, N. Y.

## FORTY-THIRD SENATE DISTRICT

Phillips, Jesse S.....	36 Church St., Hornell, N. Y.
Wadsworth, James W., Sr.	Geneseo, N. Y.
Wheeler, Monroe .....	Bath, N. Y.

## FORTY-FOURTH SENATE DISTRICT

Leggett, John C.....	Cuba, N. Y.
Wood, Frank S.....	314 East Main St., Batavia, N. Y.
Greff, Clarence H.....	Warsaw, N. Y.

## FORTY-FIFTH SENATE DISTRICT

Name	P. O. Address
Rhees, Rush . . . . .	University of Rochester, Rochester, N. Y.
Jones, Frank N. . . . .	Webster, N. Y.
Tuck, Andrew E. . . . .	203 Chamber of Commerce Building, Rochester, N. Y.

## FORTY-SIXTH SENATE DISTRICT

White, Charles J. . . . .	Lockport, N. Y.
Curran, Richard H. . . . .	City Hall, Rochester, N. Y.
Dick, Homer E. A. . . . .	Wilder Building, Rochester, N. Y.

## FORTY-SEVENTH SENATE DISTRICT

Franchot, Edward E. . . . .	Niagara Falls, N. Y.
Lindsay, James P. . . . .	North Tonawanda, N. Y.
Kirby, Thomas A. . . . .	Albion, N. Y.

## FORTY-EIGHTH SENATE DISTRICT

Clinton, George, Sr. . . . .	Prudential Building, Buffalo, N. Y.
Lincoln, Leroy A. . . . .	523 Ellicott Square, Buffalo, N. Y.
Scars, Charles B. . . . .	810 Fidelity Building, Buffalo, N. Y.

## FORTY-NINTH SENATE DISTRICT

Endres, Mat. . . . .	296 Strauss St., Buffalo, N. Y.
O'Connor, Thomas V. . . . .	157 Mackinaw St., Buffalo, N. Y.
Schoonhut, Charles . . . .	352 Williams St., Buffalo, N. Y.

## FIFTIETH SENATE DISTRICT

Standart, Frank W. . . . .	303 Mutual Life Building, Buffalo.
Sanders, Harry D. . . . .	633 Marine Bank Building, Buffalo.
Nixon, James L. . . . .	339 Washington St., Buffalo.

## FIFTY-FIRST SENATE DISTRICT

Westwood, Herman J. . . .	115 Central Ave., Fredonia, N. Y.
Dow, Charles M. . . . .	72 Allen St., Jamestown, N. Y.
Whipple, James S. . . . .	Salamanca, N. Y.













3. On the powers, limitations and duties of the Legislature, except as to matters otherwise referred, to consist of seventeen members.

4. On the right of suffrage and the qualifications to hold office, to consist of seventeen members.

5. On the Governor and other State officers, their election or appointment, tenure of office, compensation, powers and duties, except as otherwise referred, to consist of seventeen members.

6. On the judiciary, to consist of seventeen members.

7. On the State finances, revenues, expenditures, and restrictions on the powers of the Legislature in respect thereto, and to public indebtedness, to consist of seventeen members.

8. On cities, their organization, government and powers, to consist of seventeen members.

9. On canals, to consist of eleven members.

10. On public utilities, to consist of seventeen members.

11. On counties, towns and villages, their organization, government and powers, to consist of seventeen members.

12. On county, town and village officers, other than judicial, their election or appointment, tenure of office, compensation, powers and duties, to consist of seventeen members.

13. On State prisons and penitentiaries, and the prevention and punishment of crime, to consist of eleven members.

14. On corporations and institutions, not otherwise herein specified, to consist of seventeen members.

15. On currency, banking and insurance, to consist of eleven members.

16. On the militia and military affairs, to consist of seven members.

17. On education and the funds relating thereto, to consist of seventeen members.

18. On charities and charitable institutions, to consist of seventeen members.

19. On industrial interests and relations, except those already referred, to consist of seventeen members.

20. On the conservation of the natural resources of the State, to consist of seventeen members.

21. On the relations of the State to the Indians residing therein, to consist of seven members.





















such rule, and the previous question or other motion to close debate shall not be in order until the expiration of the time so allotted, or the debate has been closed; the time thus allotted for debate shall be equally divided between those in favor and those opposed to the subject-matter under consideration. All questions or motions authorized by this rule shall be decided at once without delay or debate, except as herein expressly allowed.

Rule 57. The yeas and nays may be taken on any question whenever so required by any fifteen members (unless a division by yeas and nays be already pending), and when so taken shall be entered on the Journal.

Rule 58. When the Convention shall be equally divided on any question, including the President's vote, the question shall be deemed to be lost.

Rule 59. In considering the report of the Committee on Revision and Engrossment, each article shall be open to amendment germane to such changes as may have been reported by the committee, without previous notice, but no one shall speak more than five minutes, or more than once, on any proposition to amend.

Rule 60. When a blank is to be filled and different sums or times shall be proposed, the question shall be first taken on the highest sum and the longest time.

Rule 61. A majority of the Convention shall constitute a quorum. In all cases of the absence of members during its sessions, the members present shall take such measures as they shall deem necessary to secure the presence of absentees, and may inflict such censure or pecuniary penalty as they may deem just on those who, on being called on for that purpose, shall not render sufficient excuse for their absence. No constitutional amendment shall be adopted unless by the assent of a majority of all the members elected to the Convention.

Rule 62. For the purpose of securing the attendance of members, a call of the Convention may be made, but such call shall not be in order after the main question has been ordered, nor after the voting on any question has commenced, nor after the third reading of an amendment has been completed.



stitution; and the same shall be reported by said committee to the Convention, read through therein, and submitted to a final vote prior to its final adjournment. When an article of the Constitution is amended, or a new article substituted or added, such amended article, or new article, shall be enrolled and engrossed entire in its proper place in the Constitution.

## CHAPTER XV

### Miscellaneous Provisions

Rule 68. The Sergeant-at-Arms shall, under the direction of the Committee on Printing, receive from the printer all matter printed for the use of the Convention, and keep a record of the time of the reception of each document, and the number of copies received, and cause a copy of each to be placed on the desk of each member immediately after their reception by him. Subject to the direction of the President, he shall enforce the rules of the Convention.

Rule 69. Separate files of the daily Journal, reports of the committees and of all documents ordered to be printed shall be prepared and kept by the Sergeant-at-Arms, and one copy shall be placed upon the desk of each member of the Convention and of the Secretary.

Rule 70. There shall be printed, as of course, and without any special order, 1,000 copies of the Journal and of all reports of committees on the subject of Constitutional revision.

Rule 71. Six hundred copies of the Journal and six hundred copies of the reports as printed shall be bound and distributed as follows, viz.: To each member of the Convention, two copies; State Library, five copies; the library of the Senate, five copies; the library of the Assembly, five copies; the office of each county clerk, one copy; and the remaining copies to such libraries and other institutions as shall be designated by the President or by the Convention.

Rule 72. The officers of the Convention appointed by the President shall perform such duties as he may prescribe, and for any breach of duty any such officer may be removed and his successor appointed by the President. The officers of the Convention appointed by the Secretary shall perform such duties as he may *prescribe, and for any breach of duty any such officers may be removed and his successor be appointed by the Secretary.*





That, upon the execution of said contract, and bearing even date therewith, the said J. B. Lyon Company executed to the People of the State its bond in the penal sum of \$25,000, with the Fidelity and Deposit Company of Baltimore, Maryland, as surety, conditioned for the faithful performance of its said contract, which bond was approved by the Comptroller, as to form, by the Attorney-General, and the same has been filed with the Comptroller, as required by law.

All of which is respectfully submitted.

FRANCIS M. HUGO,  
*Secretary of State.*

EUGENE M. TRAVIS,  
*State Comptroller.*

EGBURT E. WOODBURY,  
*Attorney-General.*

*Composing the State Printing Board.*

Dated April 23, 1915.



WHEREAS, The said Printing Board has duly opened the said proposals received, pursuant to the said notice, and in accordance with the provisions of said chapter 76 of the Laws of 1915, has duly transmitted the said proposals to said Convention at its first session on the 6th day of April, 1915; and the said Printing Board having recommended to said Convention said proposal received from the party of the second part as the proposal the acceptance of which they consider most advantageous, and having furnished a blank form of contract, in accordance with such recommendation, for the use of the Convention, should it so determine; and

WHEREAS, The contract for the printing of the documents, journals and proceedings of said Convention has been duly awarded by said Convention to said party of the second part, in accordance with the provisions of chapter 76 of the Laws of 1915, and under the terms of said notice hereto attached, and the bid and proposal hereto attached, and the several covenants and agreements contained therein, and under the limitations aforesaid; and

WHEREAS, The State Printing Board has been authorized to execute this contract for the printing of the journals, documents and proceedings of the said Convention, pursuant to the recommendation of the Committee on Printing of said Convention, in its report made April 7, 1915, as appears from a true copy of the resolution of said Convention, duly adopted April 7, 1915, and from a true copy of said report of the Convention Committee on Printing, both of which are attached hereto and made a part hereof:

NOW, THEREFORE, THESE ARTICLES OF AGREEMENT WITNESSETH:

That said part of the second part will, at some suitable place in the State of New York, execute, perform and do with accuracy and dispatch all the printing and other work as provided for by this contract, in such quantities as the Convention, its duly designated committee or other proper authority thereof may require; and furnish all paper and other material required, and do all folding, collating, stitching, trimming, engraving, illustrating and binding provided for, and deliver the same at the time and in the manner and at a place or places, as hereinafter provided, and at and for the particular sum or sums and detailed



proper authority thereof, is satisfied that the complaint is just and proper, and the interests of the State so require, said Convention, its duly designated committee or other proper authority thereof, may cause such printing to be continued elsewhere, at the best price obtainable therefor, having due regard to the character of the work and the time within which it is to be performed, and charge the excess, if any, over the contract price herein provided for, to said party of the second part; and such excess may be deducted from any money due or to become due to said party of the second part under this contract.

AND IT IS FURTHER UNDERSTOOD AND AGREED, That this contract includes cartage, delivery of books, blanks and other printed matter, at such times and places in the city of Albany as the Convention, its duly designated committee or other proper authority thereof may direct.

IT IS FURTHER UNDERSTOOD, That no extra pay will be allowed for corrections or alterations in proof sheets, and that in laying out said journals, documents and proceedings for binding, they shall be so printed that each volume shall contain not less than one thousand pages, unless with the written consent of the Convention, its duly designated committee or other proper authority thereof.

AND IT IS STILL FURTHER AGREED, That the said party of the second part shall not assign, transfer, convey, sublet or otherwise dispose of this contract or agreement, or of its right, title or interest therein, or its power to execute the same, to any other person, company or corporation, without the previous consent in writing of the said Convention, its duly designated committee or other proper authority thereof; and in respect thereto, said party of the second part agrees to comply with the provisions of section 43 of the State Finance Law.

AND IT IS HEREBY FURTHER STIPULATED AND AGREED, That no laborer, workman or mechanic in the employ of the said party of the second part, or in the employ of any sub-contractor, or person doing or contracting to do the whole or any part of the work contemplated by this contract, shall be permitted to work more than eight hours in any one calendar day, except in cases of extraordinary emergency, caused by fire, flood or danger to life or

IT IS FURTHER STIPULATED AND AGREED, That each laborer, workman or mechanic employed by the contractor, sub-contractor, or other person on, about or upon the work herein provided for, shall be paid not less than the prevailing rate for a day's work in the same trade or occupation in the locality within the State where such work is carried on, and that this contract shall be void and of no effect unless the contractor shall comply with the foregoing provisions.

IN WITNESS WHEREOF, The Secretary of State, the State Comptroller and the Attorney-General, composing the Printing Board of the State of New York, have hereunto set their hands and seals, and the party of the second part has caused these articles of agreement to be signed by its vice-president, and its corporate seal to be hereunto affixed, attested by its secretary.

[illegible]

[L. S.] EUGENE M. TRAVIS,  
*State Comptroller.*

[L. S.] EGBURT E. WOODBURY,  
*Attorney-General,*

[L. s.]                                  J. B. LYON COMPANY,  
By CHARLES M. WINCHESTER,  
*Vice-President.*

ATTEST:

E. A. LEWIS,  
*Acting Secretary.*

[COPY]

## GENERAL—ALL COUNTIES.

[Five folios.]

## LAWS OF NEW YORK.—By Authority.

## Chap. 76.

**AN ACT** to further provide for the convention to revise the constitution and amend the same to convene on the first Tuesday of April, nineteen hundred and fifteen.

Became a law March 17, 1915, with the approval of the Governor. Passed, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. The assembly chamber is hereby designated as the place in the capitol and twelve o'clock noon as the hour of the first Tuesday of April, nineteen hundred and fifteen, for the delegates elected to the convention to revise the constitution and amend the same, to convene.

§ 2. It shall be the duty of the secretary of state after calling the convention to order, to call the roll thereof and to administer the constitutional oath of office to the members.

§ 3. It shall be the duty of the comptroller to draw his warrants for the payment of delegates' services, and for the compensation, fixed by the convention, of officers, employees and assistants appointed by the convention, for the printing of its documents, journals and proceedings, and for such other expenses as shall be incurred by the convention, upon vouchers signed by the president or a vice president of the convention, and by the secretary of the convention, or an assistant secretary designated by the secretary for that duty, and the treasurer shall pay such warrants out of any moneys in the treasury appropriated for that purpose.

§ 4. It shall be the duty of the superintendent of public buildings to place at the use of the convention, its officers and committees, the assembly chamber and, so far as they may be required, such other rooms in the capitol as are ordinarily devoted to the uses of the legislative department.

§ 5. It shall be the duty of the printing board forthwith to give notice in accordance with the provisions of the state printing law, except as to time, that on Saturday, the third day of April, nineteen hundred and fifteen, they will receive sealed proposals for the printing of the documents, journals and proceedings of the convention. The printing board shall open the proposals received pursuant to such notice and shall transmit the same to the convention at its first session, together with a recommendation by the board as to the bid, the acceptance of which they consider most advantageous, and with a blank form of contract in accordance with such recommendation for the use of the convention should it so determine.

§ 6. This act shall take effect immediately.

STATE OF NEW YORK, }  
Office of the Secretary of State. } ss:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

FRANCIS M. HUGO

Secretary of State





## CONVENTION BILLS OR OVERTURES

Composition, presswork, paper, etc., 500 copies of each four page signature, per page . . . . . Each additional 100 copies, per page —.

## CONVENTION CALENDARS

Composition, presswork, paper, etc., 500 copies of each four page signature, per page —. Each additional 100 copies, per page —.

## DOCUMENTS, JOURNALS, ETC.

Composition, presswork, paper, etc., 500 copies of each eight page signature, plain matter, per page —; rule and figure matter, per page —. Each additional 100 copies, plain matter, per page —; rule and figure matter, per page —.

## CONVENTION PROCEEDINGS

Composition, presswork, paper, etc., 500 copies of each eight page signature, per page —. Each additional 100 copies, per page —.

## BINDING JOURNALS, DOCUMENTS, ETC.

Binding in paper covers, per copy —. Binding in cloth covers, per copy —.

No extra pay will be allowed for corrections or alterations in proof sheets, nor will any additional work other than called for herein be permitted unless approved by the State Printing Board.

It is further expressly understood that the contract to be entered into as aforesaid shall contain the stipulation prescribed in section 3 of the Labor Law, that no laborer, workman or mechanic in the employ of the contractor, sub-contractor or other person doing or contracting to do the whole or part of the work contemplated by the contract, shall be permitted or required to work more than eight hours in any one calendar day, except in cases of extraordinary emergency, caused by fire or flood or danger to life or property.

The Board reserves the right to reject any or all bids.

Dated, Albany, N. Y., March 24, 1915.

FRANCIS M. HUGO,

*Secretary of State.*

EUGENE M. TRAVIS,

*Comptroller.*

EGBURT E. WOODBURY,

*Attorney-General.*

[COPY]

STATE PRINTING BOARD  
COMPTROLLER'S OFFICE

ALBANY, N. Y., *April 6, 1915**To the Constitutional Convention:*

GENTLEMEN.—Pursuant to the provisions of chapter 76 of the Laws of 1915 we transmit herewith proposals, which we have opened, received in accordance with said statute for the printing of the documents, journals and proceedings of the Convention.

As directed by the statute, we respectfully recommend that the bid, the acceptance of which we consider most advantageous, is that of the J. B. Lyon Company.

In accordance with the statute, we respectfully submit herewith a blank form of contract with our recommendation, for the use of the Convention should it so determine.

All of which is respectfully submitted.

FRANCIS M. HUGO,  
*Secretary of State,*

EUGENE M. TRAVIS,  
*State Comptroller,*

EGBURT E. WOODBURY,  
*Attorney-General,*

Composing the Printing Board of the State of New York.

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[COPY]

STATE PRINTING BOARD  
COMPTROLLER'S OFFICE

ALBANY, N. Y., *April 6, 1915**To the Honorable Constitutional Convention of the State of New York:*

GENTLEMEN.—Acting under and by direction of chapter 76 of the Laws of 1915, this Board received sealed proposals for printing at the office of the State Comptroller, Saturday, April 3, 1915.

These were opened by the Board at 12 o'clock noon, of that day. Attached herewith are the bids for the work.

As directed by the statute, the Board recommends that the contract be awarded to J. B. Lyon Company of Albany, N. Y., their proposal being most advantageous to the State.

Taking the work performed in 1894 as a basis, the estimated number of proceedings printed approximates 3,800 pages, size of our sample. The result on proposals received is as follows:

The Argus Company.....	\$16,720 25
Brandow Printing Company.....	9,234 00
J. B. Lyon Company.....	7,790 00

The bills and calendars totaled three volumes each, 1,000 copies of each being ordered; therefore the result per 1,000 copies is per page:

*Bills*

The Argus Company.....	\$2 85
Brandow Printing Company.....	1 80
J. B. Lyon Company.....	1 55

*Calendars*

The Argus Company .....	\$4 47
Brandow Printing Company . . . . .	3 62
J. B. Lyon Company .....	3 00

The documents and journals approximate 4 volumes of 1,000 copies, therefore the result per 1,000 copies is as follows per page:

*Plain*

The Argus Company .....	\$3 65
Brandow Printing Company .....	1 78
J. B. Lyon Company .....	1 70

*Rule and Figure*

The Argus Company .....	\$3 45
Brandow Printing Company .....	2 81
J. B. Lyon Company .....	3 00

While the Brandow Printing Company are a trifle lower than the J. B. Lyon Company on the rule and figure composition, there is so little of this work in connection with the whole proposition that the result would not be material.

#### BINDING

In regard to binding, the Brandow Printing Company bid is the same as the J. B. Lyon Company on paper covers and one cent lower than the J. B. Lyon Company on cloth binding. The lower price on the other work in our opinion more than offsets the difference.

On examination of the volumes in the library we find the manual, the annotated constitution, the subject index digest and the statistical volume, all of which were a part of the convention work in 1894. We are informed that this work is already ordered and partly completed under the direction of the Constitutional Convention Commission. The major portion of the work therefore will consist of journals and proceedings, for which the J. B. Lyon Company proposal is the most favorable.

Undoubtedly the journals and proceedings will be revised and indexed after the Convention as was the case in 1894 and the price per page would govern rather than the price per extra copies.

Respectfully submitted,

FRANCIS M. HUGO,

*Secretary of State.*

EUGENE M. TRAVIS,

*Comptroller.*

EGBURT E. WOODBURY,

*Attorney-General,*

Composing the Printing Board of the State of New York.

[COPY]

Mr. Berri, from the Committee on Printing, submitted the following report.

*To the Constitutional Convention:*

The undersigned committee respectfully reports that it has carefully considered the report and recommendation of the State Printing Board, with the accompanying bids and papers submitted to it and recommends the acceptance of the bid of the J. B. Lyon Company. It also advises the execution of the contract prepared and recommended by the State Printing Board.

We further recommend that until further orders the number of copies to be printed shall be as follows: Of the Proceedings of the Convention seven hundred, of the Journals, Calendars, Documents and Proposed Constitutional Amendments, five hundred each.

Dated April 7, 1915.

(Signed)

WILLIAM BERRI,  
CHARLES H. BETTS,  
CHARLES J. MERENESS,  
JAMES H. DAHM,  
JAMES L. NIXON,  
SAMUEL H. BEACH.

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[COPY]

## IN CONSTITUTIONAL CONVENTION,

ALBANY, N. Y., *April 7, 1915*

Mr. Berri offered for the consideration of the Convention a resolution in the words following:

*Resolved*, That the State Printing Board be and they are hereby authorized to execute a contract for the printing of the journals, documents and proceedings of the Convention pursuant to the recommendation of the Committee on Printing in their report made April 7, 1915.

Mr. President put the question whether the Convention would agree to said resolution and it was determined in the affirmative.









Mr. Barhite presented a memorial, asking that State employes be selected upon merit.

Referred to the Committee on Legislature, its Powers and Duties.

Mr. McMillan (by request) presented two memorials on the same subject.

Referred to the Committee on Legislature, its Powers and Duties.

Mr. Goodelle presented a memorial on the same subject.

Referred to the Committee on Cities.

Mr. Francis presented four petitions, asking for State inspection of certain religious institutions.

Referred to the Committee on Charities.

Mr. Tucker presented the petition of citizens of New York city, in favor of female suffrage.

Referred to the Committee on Suffrage.

Also, a petition from the National Christian League for the promotion of social purity, on the same subject.

Referred to the Committee on Suffrage.

Mr. W. H. Steele presented the memorial and petition of the Oswego Baptist Association, against sectarian appropriations.

Referred to the Committee on Charities.

Mr. Hedges presented a petition, asking State inspection of certain religious institutions.

Referred to the Committee on Charities.

Mr. Countryman presented the protest of citizens of Albany against female suffrage.

Referred to the Committee on Suffrage.

Mr. Hill presented the petition of citizens of Erie county, in favor of woman suffrage.

Referred to the Committee on Suffrage.

Mr. Blake offered a resolution in words following:

Resolved, That the Secretary of State be and he hereby is directed to report to this Convention, on or before the 25th day of June, 1894, the number of indictments for murder in the first and second degrees found by grand juries of the various counties in this State, from January 1, 1889, to January 1, 1894, and the number of convictions of each degree had upon such indictments, including pleas of murder in the second degree.

Referred to the Committee on Judiciary.

[Specimen Pages for Documents]

# STATE OF NEW YORK

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## IN CONVENTION

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### DOCUMENT

No. 9

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### RULES

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#### CHAPTER I

#### POWERS AND DUTIES OF THE PRESIDENT AND VICE-PRESIDENTS

Rule 1. The president shall take the chair each day at the hour to which the Convention shall have adjourned. He shall call to order, and, except in the absence of a quorum, shall proceed to business in the manner prescribed by these rules.

Rule 2. He shall possess the powers and perform the duties herein prescribed, viz.:

1. He shall preserve order and decorum, and, in debate, shall prevent personal reflections, and confine members to the question under discussion. When two or more members rise at the same time, he shall name the one entitled to the floor.

2. He shall decide all questions of order, subject to appeal to the Convention. On every appeal he shall have the right, in his place, to assign his reason for his decision. In case of such appeal no member shall speak more than once.

3. He shall appoint all committees, except where the Convention shall otherwise order.

4. He may substitute any member to perform the duties of

the chair during the absence or inability of both vice-presidents, but for no longer period than two consecutive legislative days, except by special consent of the Convention.

5. When the Convention shall be ready to go into committee of the whole, he shall name a chairman to preside therein, subject to right of committee to elect its own chairman.

6. He shall certify the passage of all amendments by the Convention, with the date thereof.

7. He shall designate the persons who shall act as reporters for the public press, not exceeding thirty in number; but no reporter shall be admitted to the floor who is not an authorized representative of a daily paper. Such reporters, so appointed, shall be entitled to such seats as the President shall designate, and shall have the right to pass to and fro from such seats in entering or leaving the Assembly Chamber. No reporter shall appear before any of the committees in advocacy of, or in opposition to, anything under consideration before such committees. A violation of this rule will be sufficient cause for the removal of such reporter. Removal for this cause shall be vested in the president.

8. He shall not be required to vote in ordinary proceedings, except where his vote would be decisive. In case of a tie vote the question shall be lost. He shall have general control, except as provided by rule or law, of the Assembly Chamber and of the corridors and passages in that part of the Capitol assigned to the use of the Convention. In case of any disturbance or disorderly conduct in the galleries, corridors or passages, he shall have the power to order the same to be cleared, and may cause any person guilty of such disturbance or disorderly conduct to be brought before the bar of the Convention. In all such cases the members present may take such measures as they shall deem necessary to prevent a repetition of such misconduct, either by the infliction of censure or pecuniary penalty, as they may deem best, on the parties thus offending.

9. He shall also be ex officio member and chairman of the committee on rules.

10. In the absence of the President, or his inability to preside, his duties shall devolve upon the first vice-president, or, if he also be absent, upon the second vice-president.



1 shall not be passed except in conformity with the provisions of  
2 this section. After any bill for a special city law, relating to a  
3 city, has been passed by both branches of the legislature, the  
4 house in which it originated shall immediately transmit a cer-  
5 tified copy thereof to the mayor of such city, and within fifteen  
6 days thereafter the mayor shall return such bill to the house from  
7 which it was sent, with his certificate thereon, stating whether  
8 the city has or has not accepted the same.

9 In every city of the first class, the mayor, and in every other  
10 city, the mayor and the legislative body thereof, concurrently,  
11 shall act for such city as to such bill; but the legislature may  
12 provide for the concurrence of the legislative body in cities of the  
13 first class. The legislature shall provide for a public notice and  
14 opportunity for a public hearing concerning any such bill in  
15 every city to which it relates, before action thereon. Such a bill,  
16 if it relates to more than one city, shall be transmitted to the  
17 mayor of each city to which it relates, and shall not be deemed  
18 accepted, unless accepted, as here provided, by every such city.  
19 Whenever any such bill is accepted, as herein provided, it shall  
20 be subject, as are other bills, to the action of the governor.  
21 Whenever any such bill is returned without the acceptance of the  
22 city or cities to which it relates, or is not returned within such  
23 fifteen days, it may, nevertheless, again be passed by both  
24 branches of the legislature, and it shall then be subject, as are  
25 other bills, to the action of the governor. In every special city  
law which has been accepted by the city or cities to which it

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*NOTE — These lines are twelve point spaced in original.*



[COPY]

FORM OF PROPOSAL FOR CONSTITUTIONAL CON-  
VENTION PRINTING

(Under Chapter 76, Laws of 1915.)

ALBANY, N. Y., April 9, 1915

To the Honorable Secretary of State, Comptroller and Attorney-  
General:

(Constituting the State Printing Board, State of New York.)

J. B. LYON COMPANY, Albany, N. Y.:

The undersigned propose to do the Constitutional Convention  
printing and work connected therewith for the State of New  
York, at the prices and on the conditions herein named, and agree  
to comply fully with the requirements of the State Printing Law,  
and in quantity, quality, and manner set forth, described and pro-  
vided in the advertisement or notice calling for proposals for  
said printing, namely:

CONVENTION BILLS OR OVERTURES

Composition, presswork, paper, etc., 500 copies of each four page signature, per page.....	\$1 05
Each additional 100 copies, per page.....	10

CONVENTION CALENDARS

Composition, presswork, paper, etc., 500 copies of each four page signature, per page.....	2 50
Each additional 100 copies, per page.....	10

DOCUMENTS, JOURNALS, ETC.

Composition, presswork, paper, etc., 500 copies of each eight page signature, plain matter, per page..	1 20
Rule and figure matter, per page.....	2 50
Each additional 100 copies, plain matter, per page..	10
Rule and figure matter, per page.....	10

CONVENTION PROCEEDINGS

Composition, presswork, paper, etc., 500 copies of each eight page signature, per page.....	1 55
Each additional 100 copies, per page.....	10

### BINDING JOURNALS, DOCUMENTS, ETC

Binding in paper covers, per copy.....	\$0 01
Binding in cloth covers, per copy.....	13

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For engraving on stone, steel or wood, and printing maps, plans and illustrations for convention documents, the price to be paid, including cutting, folding and pasting the same, shall in no case exceed the lowest rates current for work of the desired quality in Albany and New York city at the time said work may be done. It is understood that no extra pay will be claimed or allowed for any corrections or alterations in proof sheets. And the right to abrogate or annul any contract made in pursuance hereof, for failure or nonperformance on the part of said person or firm, is hereby expressly reserved to the Secretary of State, Comptroller and Attorney-General.

J. B. LYON COMPANY,  
CHAS. M. WINCHESTER,  
*Vice-President.*

I hereby guarantee that if the foregoing bid for the Constitutional Convention printing is accepted that J. B. Lyon Company will enter into a contract in compliance with said proposals, give the necessary security, and make due and proper performance of said contract.

WM. LYON.

I certify that the above guarantor resides in the city of Albany, N. Y., is a freeholder, and able to make good his guaranty.

GEORGE ADDINGTON,  
*County Judge of the County of Albany.*

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**NOTE** — Under the provisions of Chapter 76, Laws of 1915, a certified check on some state or national bank or the money, to the amount of \$10,000, is required to accompany each bid.







actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his *or her* vote by reason of his *or her* absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

AND WHEREAS, By virtue of section 3 of article XIV of the Constitution, any amendment proposed by this Convention relating to the same subject will if approved be deemed to supersede the foregoing amendment proposed by the Legislature and hence misunderstanding and confusion may arise,

NOW, THEREFORE, in order to avoid misunderstanding and confusion and to provide that if the people shall by a majority of the electors voting thereon approve and ratify said legislative amendment the same shall take effect, and that if they shall not approve and ratify the same woman suffrage shall not take effect, it is

*Resolved* (1), That the Convention do not submit any amendment relating to the subject of woman suffrage;

(2) That the Convention do not submit a complete section 1 of article II of the Constitution or any substitute therefor as part of a proposed revised Constitution; and

(3) That if the Convention shall submit any other amendment to said section 1 of article II it submit the same in such a manner that neither its approval and ratification by the people nor its failure of such approval and ratification shall affect the determinative effect of the aforesaid popular vote on the said legislative amendment.



of the United States, Magna Charta, and other fundamental documents of a constitutional character.

### PUBLICATION No. 2

Publication number 2, namely, the New York State Constitution Annotated, has been prepared in two parts. Part II, containing all the amendments to the constitution proposed in the Legislature from 1895 to 1914 inclusive, including those submitted to the people and adopted, those submitted to the people but rejected, and those not submitted to the people, was sent in an advance paper edition to all delegates on April 17, 1915. Attention is called to the fact that this part gives the vote on all amendments submitted to the people. Part I of this publication, containing the text of the existing constitution with notes, is off the press and is now being bound with Part II. The complete publication including both parts will be supplied to the delegates on Tuesday, May 25th. Each part is preceded by a prefatory note which fully explains its purpose and scope.

### PUBLICATION No. 3

Publication number 3, a subject-index digest of all the 48 State constitutions, is being pushed through the press as rapidly as possible. The preparation of this publication was an ambitious undertaking and it has taken somewhat longer than the Commission anticipated. In order to make it available as soon as possible to the delegates, the Commission has arranged to have thirty sets of galley proofs arranged and classified by subjects and supplied to the Convention Committee on Library and Information to be used by that Committee in its discretion. The following subjects are covered by the galley proofs now available:

Auditor	Lieutenant-Governor
Attorney-General	Public Lands
Courts (in part)	Public Officers
Elections	Secretary of State
Eminent Domain	Taxation
Impeachment	Treasurer
Legislative Proceedings and Legislature	Waters



comprises articles by the heads of the leading departments of the city government, setting forth the problems of each particular department, what has been accomplished during the past two or three years, and a brief outline of the difficulties confronting any administration of the city's affairs. The subjects treated are the following:

"The Office of Mayor," by John Purroy Mitchel.

"Public Health and Sanitation," by S. S. Goldwater.

Discussion by John J. Murphy, George O'Hanlon and Homer Folks.

"Police Administration," by Arthur Woods.

Discussion by Clement J. Driscoll.

"Fire Administration," by Robert Adamson.

Discussion by Clement J. Driscoll.

"Charities and Correction," by Katherine B. Davis and John A. Kingsbury.

Discussion by Edward T. Devine.

"Education," by Thomas W. Churchill.

Discussion by Clarence E. Meleney.

"Parks and Recreation," by Cabot Ward and C. Ward Crampton.

Discussion by Howard Bradstreet and W. B. Van Ingen.

"Financial Administration, Budget and Tax Rate," by William A. Prendergast.

Discussion by Thomas W. Lamont and E. R. A. Seligman.

"Register's Office of New York County," by John J. Hopper.

"Highways, Street Cleaning and Public Works," by Douglas Mathewson.

Discussion by John T. Fetherston, Lewis H. Pounds and Marcus M. Marks.

"The Administrative Organization of the Courts," by William McAdoo.

Discussion by William L. Ransom and George W. Alger.

"The City Charter," by George McAneny.

Discussion by Thomas I. Parkinson and Richard S. Childs.

"Transportation, Port and Terminal Facilities," by John Purroy Mitchel.

Discussion by Richard C. Harrison and Edward M. Bassett.

This publication will be ready for the delegates May 25, 1915.





4. The items and gross amount received as contributions for county government charges; the items and gross amount contributed by the county to the expenses of the State government and the government of other municipal subdivisions, and the net excess of the contributions received over the contributions made or vice versa.

5. The items and gross amount received by the treasurer from taxes; the items and gross amount expended by the treasurer in the collection thereof and in advances and refunds.

6. Minor items of advance made during the year and repaid on account of prior advances; deposits with the treasurer and deposits of previous years repaid; refunds on account of error.

7. Increase or decrease in cash balance arising from the transactions of the year with a distribution to the State funds; receipts from building bonds and temporary loans; receipts from highway bonds and loans; and receipts from the general county funds.

The tables show nothing in regard to the expenditures for general government, except the gross amount.

*d.* The cost of supervision of county finances in gross, per capita and by \$1,000 of valuation.

As an incident to these tables there will be shown:

1. The amount paid for supervisors' compensation distributed to salaries, per diem compensation, committee work, extending taxes, copying rolls and mileage.

2. The expenses of the board of supervisors distributed to authorized clerks and employees, emergency employees, traveling expenses for committee work, stationery, postage and office incidentals, telephone and telegraph, furniture and fixtures for supervisors' chambers and special counsel.

3. Expenses for general administrative officers in certain counties performing duties elsewhere performed by boards of supervisors or their employees, distributed to county attorney, county auditor, county comptroller, purchasing agent and superintendent of buildings.

*e.* The character of the work of the board of supervisors, as shown by the cost to the county in gross, per



"The County Auditor," by Geo. S. Buck, Auditor, Erie County.

"The County Judiciary," by Herbert Harley, Secretary, American Judicature Society.

"The Sheriff and a State Constabulary," by Ernest Cawcroft, Deputy State Treasurer, Albany.

"The County Manager Plan," by Richard S. Childs, Secretary, The National Short Ballot Association.

"Schenectady's City-County Plan," by Benedict Hatmaker, Editor, The Schenectady "Union-Star."

IV. A survey furnished by the Westchester County Research Bureau of the lines of service which are recognized in the laws of New York State as within the field of the governmental functions exercised within counties by county officers, county departments or county councils, and included under the general term county government; followed by a condensed description of the governmental organization of the county of Westchester.

The above four publications will be included in one volume which is being pushed through the press as rapidly as possible.

#### PUBLICATION No. 9

A critical survey of the State government prepared under the direction of the Bureau of Municipal Research of New York City and based upon the "Government of the State of New York," the publication referred to in the first part of this report No. 4 which has already been supplied to delegates. This Commission believes that the delegates to the Constitutional Convention are entitled to all the light obtainable on the important problems before it and will transmit this critical survey to the delegates in the belief that the criticisms therein contained, unfavorable as well as favorable, will be of substantial assistance to the delegates in considering possible changes in the organization of the State government. This Commission does not, however, by transmitting this publication to the delegates necessarily endorse any of the suggestions therein contained.







ments to secure a report which it believes will be of great value and usefulness to the delegates. Definite announcement of this report cannot, however, be made at this time.

It is hoped that arrangements can also be made to secure similar information and data covering at least some aspects of city and county government.

The Commission will be pleased to receive suggestions as to the specific kind of information and data along these lines which the delegates deem important for them to have.

5. The Commission has also arranged to secure a supply of the printed proceedings of the annual meeting of the Academy of Political Science held in New York city on November 19 and 20, 1914. This entire meeting was given up to the consideration of the subject, "The Revision of State Constitutions." The Commission believes that a perusal of the papers read at this meeting will throw valuable light on many of the important problems which will come before the Convention.

It is the intention of the Commission to place in the Convention hall, or in an adjoining room, so as to be readily accessible to delegates during the Convention period, many works bearing upon the political, social and constitutional development of this State, among which will be the publications on the inclosed list.

We shall be pleased to receive from you any suggestions covering the work of the Commission which you think will enable us to be of real and substantial service to the delegates.

Respectfully yours,

MORGAN J. O'BRIEN, *Chairman*  
ROBERT F. WAGNER  
THADDEUS C. SWEET  
SAMSON LACHMAN  
JOHN H. FINLEY





mission, after directing the distribution of the material to delegates, provides that "such commission may, in its discretion, provide for the circulation and distribution of such matter so far as practicable among other persons desiring the same and may fix a price therefor to be paid by persons other than delegates or state or municipal officers, which price shall be as nearly as possible the cost to the State of the material sold. \* \* \* Nothing herein contained, however, shall be deemed to prevent such commission from making such free distribution of such material as may be feasible."

Before making the distribution authorized under this act, the Commission wishes to satisfy fully the needs of all the delegates. It therefore requests each delegate to let the secretary of the Commission know, in writing, on or before June 4th, what publications, if any, he desires for his own use (describing the publications by the numbers given in document No. 6). After these reports have been received from the delegates the Commission will proceed on the assumption that the wants of the delegates have been complied with and will be at liberty to distribute the remaining copies in accordance with the directions contained in Chapter 261 of the laws of 1914. The copies for distribution by sale may be obtained from the Librarian, Dr. Charles R. Skinner, in the Legislative Library, to which place communications to Mr. Frederick D. Colson, Secretary of the Commission, may be addressed. It is necessary to point out that the Commission is not in a position to supply any additional sets of Lincoln's Constitutional History of New York except for the personal use of the delegates to the Convention or to the Convention Committee. It is further necessary to state that this Commission was able to secure only three hundred copies of publication No. 4, namely, the publication entitled "Government of the State of New York; a description of its organization and functions" and of these three hundred copies only about fifty remain for distribution.

Respectfully,

MORGAN J. O'BRIEN,

*Chairman,*

JOHN H. FINLEY,

SAMSON LACHMAN.

**STATE OF NEW YORK**

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**IN CONVENTION**

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**DOCUMENT**

**No. 8**

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**REPLY OF THE CLERK OF THE COURT OF APPEALS  
TO RESOLUTION OF THE CONVENTION**

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**MAY 28, 1915**

*To the Secretary of the Constitutional Convention:*

DEAR SIR.—I beg herewith to hand you the answers to the questions contained in the resolution of the Constitutional Convention transmitted to me on May 6, 1915. The information has been largely prepared by G. Herbert Cone, the law clerk of the Court.

Respectfully yours,

R. M. BARBER.

**QUESTION 1**

**General Subject-Matter of Causes**

(NOTE TO THIS QUESTION: In ascertaining the subject-matter of the cases, regard has been had, except in a few instances, to the general nature of the question involved, rather than to the form in which it arose. For instance, many questions of statutory construction and constitutional law are brought up by the writs of mandamus, certiorari and by other special proceedings, but as a rule no attention has been paid to the procedure in classifying the litigations. In a few instances, however, where the procedure and nature of the question were so closely interwoven that the procedure adopted would more readily identify the nature of the question, such as habeas corpus, quo

warranto, replevin, and perhaps in a few other instances, such cases have been thus classified.)

1913		1914	
NEGLIGENCE:		NEGLIGENCE:	
Master and servant.....	49	Master and servant.....	46
Personal injuries to third parties . . . . .	38	Personal injuries to third parties . . . . .	32
Same on streets and highways.	10	Same on streets and highways.	10
Damage to property.....	2	Damage to property.....	4
By automobiles . . . . .	11	By automobiles . . . . .	6
<hr/> Total . . . . .		<hr/> Total . . . . .	
	110		98
<hr/>		<hr/>	
CRIMES . . . . .	47	CRIMES . . . . .	53
<hr/>		<hr/>	
REAL PROPERTY:		REAL PROPERTY:	
Foreclosure . . . . .	11	Foreclosure . . . . .	15
Partition . . . . .	7	Partition . . . . .	4
Trespass . . . . .	3	Trespass . . . . .	7
Mortgages . . . . .	5	Mortgages . . . . .	2
Landlord and tenant.....	8	Landlord and tenant.....	10
Contracts for sale of.....	7	Contracts for sale of.....	10
General . . . . .	21	General . . . . .	24
<hr/> Total . . . . .		<hr/> Total . . . . .	
	62		72
<hr/>		<hr/>	
CONTRACTS:		CONTRACTS:	
Purchase and sale.....	14	Purchase and sale.....	14
Municipal corporations . . . . .	11	Municipal corporations . . . . .	10
Negotiable instruments . . . . .	16	Negotiable instruments . . . . .	17
Partnership . . . . .	8	Partnership . . . . .	7
Bonds and undertakings.....	8	Bonds and undertakings.....	12
Insurance . . . . .	13	Insurance . . . . .	25
Personal services . . . . .	5	Personal services . . . . .	8
Broker's commissions . . . . .	4	Broker's commissions . . . . .	6
General . . . . .	29	General . . . . .	34
<hr/> Total . . . . .		<hr/> Total . . . . .	
	108		133
<hr/>		<hr/>	
CONDEMNATION . . . . .	24	CONDEMNATION . . . . .	31
<hr/>		<hr/>	
DECEDENTS' ESTATES . . . . .	45	DECEDENTS' ESTATES . . . . .	53
(Including accounting of representatives, probate and construction of wills, claims, etc.)		(Including accounting of representatives, probate and construction of wills, claims, etc.)	

**1913****TAXES:**

General . . . . .	9
Transfer . . . . .	6
Franchise . . . . .	2
Special franchise . . . . .	6
Mortgage . . . . .	2
Total . . . . .	25

MATRIMONIAL ACTIONS . . . . .	8
(Divorce, annulment and breach of promise.)	

**GOVERNMENTAL FUNCTIONS:**

Positions in public service... .	15
Change of grade.....	5
Liquor tax certificates.....	3
Court of Claims.....	4
Labor laws . . . . .	4
Municipal and public rights and duties generally.....	15
Total . . . . .	46

**TORTS:**

Fraud and deceit.....	10
Conversion . . . . .	2
Nuisance . . . . .	3
Libel . . . . .	5
Slander . . . . .	1
Alienation of affections.....	2
Malicious prosecution ... .	1
False imprisonment . . . . .	2
Civil Rights Law.....	1
Unclassified . . . . .	1
Total . . . . .	28

PENALTIES . . . . .	6
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STOCKHOLDERS' LIABILITY . . . . .	3
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STOCK BROKERS... . . . .	4
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**1914****TAXES:**

General . . . . .	14
Transfer . . . . .	7
Franchise . . . . .	5
Special franchise . . . . .	3
Total . . . . .	29

MATRIMONIAL ACTIONS . . . . .	5
(Divorce and separation.)	

**GOVERNMENTAL FUNCTIONS:**

Positions in public service... .	21
Change of grade.....	5
Liquor tax certificates.....	6
Court of Claims.....	5
Municipal and public rights and duties generally.....	28
Total . . . . .	65

**TORTS:**

Fraud and deceit.....	2
Conversion . . . . .	6
Nuisance . . . . .	5
Libel . . . . .	2
Civil Rights Law.....	3
Unclassified . . . . .	1
Total . . . . .	21

PENALTIES . . . . .	3
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STOCKHOLDERS' LIABILITY . . . . .	5
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STOCK BROKERS... . . . .	4
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<b>1913</b>		<b>1914</b>	
BANKS AND BANKING.....	6	BANKS AND BANKING.....	7
<hr/>		<hr/>	
RAILROADS . . . . .	8	RAILROADS . . . . .	7
(Organizations, construction and operation.)		(Organization, construction and operation.)	
<hr/>		<hr/>	
CORPORATIONS:		CORPORATIONS:	
Dissolution . . . . .	3	Dissolution . . . . .	4
Stock and stockholders.....	6	Stock and stockholders.....	6
General matters . . . . .	7	General matters . . . . .	8
<hr/>		<hr/>	
Total . . . . .	16	Total . . . . .	18
<hr/>		<hr/>	
ATTORNEYS:		ATTORNEYS:	
Compensation . . . . .	7	Compensation . . . . .	8
Disbarment . . . . .	1	Disbarment . . . . .	3
<hr/>		<hr/>	
Total . . . . .	8	Total . . . . .	11
<hr/>		<hr/>	
CARRIERS . . . . .	4	CARRIERS . . . . .	7
<hr/>		<hr/>	
FERRY LICENSES . . . . .	2		
<hr/>		<hr/>	
QUO WARRANTO . . . . .	3	QUO WARRANTO . . . . .	1
<hr/>		<hr/>	
HABEAS CORPUS . . . . .	4	HABEAS CORPUS . . . . .	3
<hr/>		<hr/>	
PROHIBITION, WRIT OF.....	1		
<hr/>		<hr/>	
ELECTIONS (POLITICAL) . . . . .	3	ELECTIONS (POLITICAL) . . . . .	9
<hr/>		<hr/>	
REPLEVIN . . . . .	1	REPLEVIN . . . . .	5
<hr/>		<hr/>	
ATTACHMENT . . . . .	1		
<hr/>		<hr/>	
PATENTS . . . . .	1		

1913		1914	
FRAUDULENT TRANSFERS .....	2	FRAUDULENT TRANSFERS .....	1
<hr/>			
JUDGMENT CREDITOR'S ACTION...	1	JUDGMENT CREDITOR'S ACTION...	1
<hr/>			
BANKRUPTCY . . . . .	2	BANKRUPTCY . . . . .	3
<hr/>			
MECHANICS' LIENS .....	1	MECHANICS' LIENS .....	8
		Other liens .....	1
<hr/>			
MEMBERSHIP ASSOCIATION .....	2	MEMBERSHIP ASSOCIATION .....	1
<hr/>			
CONTEMPT . . . . .	1	CONTEMPT . . . . .	1
<hr/>			
SUPPLEMENTARY PROCEEDINGS ..	1		
<hr/>			
EXECUTIONS . . . . .	1		
<hr/>			
FOREIGN JUDGMENTS .....	1		
<hr/>			
GIFTS . . . . .	1	GIFTS . . . . .	1
<hr/>			
		ARBITRATION . . . . .	1
<hr/>			
		INCOMPETENT PERSONS .....	1
<hr/>			
TRADE-MARKS . . . . .	1	TRADE-MARKS . . . . .	1
<hr/>			

(NOTE TO THE FOREGOING: There would perhaps be still greater uniformity shown in the work of the court were it not for the fact that during the year 1913 three weeks of the regular work was taken up with the impeachment trial. This will account for a slight falling off in the number of cases disposed of during 1913, as shown by the answer to Question XI, *post*, and in the number or kinds of questions presented as shown in the foregoing table.)

**QUESTION 2****Number of Cases Involving Questions of Constitutional Law****1913****18****1914****32****QUESTION 3****Number of Cases Involving the Interpretation of General Statutes of This State and of the United States****1913****182****1914****203**

(NOTE TO THE ABOVE: In calculating these cases, we have excluded the Statutes of Limitation and the Statutes of Fraud, and also the Codes, unless such statutes or a section of the Code was the actual and important question involved in the controversy, which was the situation in but a very small number of cases.)

**QUESTION 4****The Number of Cases Involving Questions of Criminal Law****1913****53****1914****57****QUESTION 5****The Number of Cases Involving the Interpretation of Municipal Charters****1913****39****1914****63**

(NOTE: The great majority of these cases arose over the construction of the Charter of Greater New York.)

**QUESTION 6****The Number of Cases Involving the Interpretation of Wills****1913****32****1914****24****QUESTION 7**

**The Number of Cases in Which Appeals Were Allowed by the Several Appellate Divisions Pursuant to Section 190 of the Code of Civil Procedure, and that He State Separately the Number of Such Cases in Which Appeals Were so Taken Under Each Subdivision of Said Section**





The tables annexed will probably furnish the information which the Convention desires as to the work of the court.

Cases pending January 1, 1910.....	824
Returns on Appeal filed for the year 1911.....	763
Returns on Appeal filed for the year 1912.....	744
Returns on Appeal filed for the year 1913.....	774
Returns on Appeal filed for the year 1914.....	795
Returns on Appeal filed May 21, 1915.....	426

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Total Returns filed in five years, four months and twenty-one days .....	4,326
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Cases argued and dismissed:

For the year 1910.....	683
For the year 1911.....	696
For the year 1912.....	662
For the year 1913.....	635
For the year 1914.....	679
To May 21, 1915.....	349

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Total cases disposed of.....	3,704
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Total number of Returns filed.....	4,326
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Total number of cases disposed of.....	3,704
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Total number of cases now pending.....	622
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Respectfully submitted,

R. M. BARBER,  
*Clerk of the Court of Appeals.*



visors, supplemented in some instances by personal investigation and reports to other county officers. All of the information, however, has been gathered from reliable sources.

In a few counties either by special law or resolution of the Board of Supervisors the County Treasurer is required to pay for extra clerk hire out of the salary and compensation allowed him. In other counties such clerk hire is paid by the county in addition to the County Treasurer's salary. To make the table complete, therefore, we show the full cost of each county treasurer's office to his county.

The following statement summarizes the expenses of these offices throughout the entire State.

*Summarized Statement.*

The following statement summarizes the expenses of these offices for the State:

Salaries . . . . .	\$114,633 27
Fees:	
Liquor taxes . . . . .	\$30,929 21
Inheritance taxes . . . . .	32,438 69
Bank taxes . . . . .	9,195 10
State taxes . . . . .	7,302 14
Court and trust fund fees . . . . .	2,003 03
Returned tax fees . . . . .	3,340 25
	<hr/>
Total . . . . .	85,108 42
	<hr/>
Total treasurers' compensation . . . . .	\$199,841 69
Expenses for clerks and assistants . . . . .	107,739 32
Incidental office expenses . . . . .	46,003 00
	<hr/>
Total cost of offices . . . . .	\$353,584 41
	<hr/> <hr/>

Should you desire further information than is contained in these tables, I shall be very glad to furnish it within a reasonable time.

Respectfully yours,

EUGENE M. TRAVIS,

*Comptroller.*

**COUNTY**

**SALARY AND COMPENSATION AND**

CLASS <sup>1</sup>	Popula- tion	Salary received by treasurer	FEES RETAINED BY			
			Liquor taxes <sup>2</sup>	Inherit- ance taxes <sup>3</sup>	Bank taxes <sup>4</sup>	State taxes <sup>5</sup>
Class I.....	1,095,252	\$19,500 00	.....	.....	\$2,005 14	.....
Class II.....	650,397	19,875 00	.....	.....	1,096 42	\$1,236 26
Class III.....	1,297,143	33,624 97	\$11,617 74	\$11,189 05	1,644 20	3,308 40
Class IV.....	989,595	27,658 30	15,557 29	18,617 85	3,474 82	2,182 60
Class V.....	314,344	13,975 00	3,754 18	2,631 79	974 52	574 79
State.....	4,346,731	\$114,633 27	\$30,929 21	\$32,438 69	\$9,195 10	\$7,902 14

<sup>1</sup> Counties arranged in classes by population.

<sup>2</sup> Liquor Tax Law, § 11.

<sup>3</sup> Tax Law, § 237.

<sup>4</sup> Tax Law, § 24. See opinion of Attorney-General, May 6, 1912.

**TREASURERS****EXPENSES, FISCAL YEAR 1914**

<b>TREASURER</b>						
<b>Court and trust fund fees <sup>6</sup></b>	<b>Returned tax fees <sup>7</sup></b>	<b>Total compensation of treasurer</b>	<b>Expenses for clerks and assistants</b>	<b>Incidental office expenses</b>	<b>Total cost of office to county</b>	
.....	.....	\$21,505 14	\$48,696 67	\$12,617 06	\$82,818 87	I
\$402 56	\$2,935 05	25,545 29	17,579 99	3,983 29	47,108 57	II
507 62	80 70	61,972 68	32,120 06	13,274 89	107,367 63	III
902 92	.....	68,393 87	7,788 55	13,099 37	89,281 79	IV
189 93	324 50	22,424 71	1,554 45	3,028 39	27,007 55	V
\$2,003 03	\$3,340 25	\$199,841 69	\$107,739 72	\$46,003 00	\$353,584 41	State

<sup>6</sup> Tax Law, § 91. See opinion of Attorney-General, May 6, 1912.

<sup>6</sup> Code Civil Procedure, § 3321. See opinion of Attorney-General, May 6, 1912.

<sup>7</sup> Special statutes for certain counties.

COUNTY

SALARY AND COMPENSATION AND

COUNTY	Popula- tion	Salary received by treasurer	FEES RETAINED BY			
			Liquor taxes	Inherit- ance taxes	Bank taxes	State taxes
CLASS						
1. Erie.....	528,985	\$5,000 00			\$2,005 14	
2. Monroe.....	283,212	4,500 00				
3. Westchester.....	283,055	10,000 00				
Totals.....	1,095,252	\$19,500 00			\$2,005 14	
CLASS						
1. Onondaga.....	200,298	\$4,000 00				
2. Albany.....	173,666	5,000 00			\$715 78	\$758 01
3. Oneida.....	154,157	4,875 00				
4. Rensselaer.....	122,276	6,000 00			380 64	478 25
Totals.....	650,397	\$19,875 00			\$1,096 42	\$1,236 26
CLASS						
1. Orange.....	116,001	\$3,958 33			\$363 30	
2. Chautauqua.....	105,126	3,500 00				
3. Suffolk.....	96,138	1,500 00	\$2,824 69		221 79	
4. Niagara.....	92,036	2,500 00				\$464 79
5. Ulster.....	91,769	2,500 00		\$7,401 89	233 49	
6. St. Lawrence.....	89,005	1,500 00	933 90	724 64	216 30	
7. Schenectady.....	88,235	1,999 98			61 80	386 67
8. Dutchess.....	87,661	3,750 00				366 68
9. Nassau.....	83,930	2,000 00	3,786 00			812 54
10. Steuben.....	83,362	3,500 00				284 46
11. Jefferson.....	80,382	1,000 00	*	578 82	159 00	298 80
12. Broome.....	78,800	2,500 00				287 02
13. Oswego.....	71,664	1,000 00	1,726 42	1,816 39	116 81	205 05
14. Cayuga.....	67,106	2,000 00	1,265 85	540 75		
15. Cattaraugus.....	65,919	416 66	1,080 88	126 56	271 71	202 39
Totals.....	1,297,143	\$33,624 97	\$11,617 74	\$11,189 05	\$1,644 20	\$3,308 40

<sup>1</sup> Approximate. Not reported by items.  
<sup>2</sup> Counsel, \$1,172.32; shelving, \$1,704.00.  
\* Not reported.

**TREASURERS****EXPENSES, FISCAL YEAR, 1914 *continued***

TREASURER						
Court and trust fund fees	Returned tax fees	Total compensation of treasurer	Expenses for clerks and assistants	Incidental office expenses	Total cost of office to county	
<b>I</b>						
.....	.....	\$7,005 14	\$29,785 26	\$5,323 50	\$42,113 90	1
.....	.....	4,500 00	10,328 50	3,354 48	18,182 98	2
.....	.....	10,000 00	8,582 91	3,939 08	22,521 99	3
.....	.....	\$21,505 14	\$48,696 67	\$12,617 06	\$82,818 87	
<b>II</b>						
.....	.....	\$4,000 00	\$5,580 00	\$732 15	\$10,312 15	1
\$328 68	\$2,592 40	9,394 87	5,799 99	651 71	15,846 57	2
.....	.....	4,875 00	2,000 00	304 21	7,179 21	3
73 88	342 65	7,275 42	14,200 00	12,295 22	13,770 64	4
\$402 56	\$2,935 05	\$25,545 29	\$17,579 99	\$3,983 29	\$47,108 57	
<b>III</b>						
.....	.....	\$4,321 63	\$800 00	\$180 12	\$5,301 75	1
.....	.....	3,500 00	.....	1,200 73	4,700 73	2
\$254 17	.....	4,800 65	6,186 25	4,385 63	15,372 53	3
.....	.....	2,964 79	1,650 00	1,575 49	6,190 28	4
*	.....	10,135 38	2,800 10	296 83	13,232 31	5
*	.....	3,374 84	300 00	222 52	3,897 36	6
*	\$16 00	2,464 45	3,656 21	622 85	6,743 51	7
172,99	.....	4,289 67	1,650 00	469 66	6,409 33	8
.....	.....	6,598 54	9,300 00	1,366 90	17,265 44	9
.....	.....	3,784 46	.....	834 83	4,619 29	10
*	*	2,036 62	500 00	136 74	2,673 36	11
*	.....	2,787 02	2,377 50	.....	5,164 52	12
*	.....	4,864 67	900 00	226 20	5,990 87	13
.....	.....	3,806 60	1,500 00	915 64	6,224 24	14
80 46	64 70	2,243 36	500 00	840 75	3,584 11	15
\$507 62	\$80 70	\$61,972 68	\$32,120 06	\$13,274 89	\$107,367 63	



SALARY AND COMPENSATION AND

COUNTY	Popula- tion	Salary received by treasurer	FEES RETAINED BY			
			Liquor taxes	Inherit- ance taxes	Bank taxes	State taxes
CLASS						
1. Saratoga.....	61,917	\$1,000 00	\$2,422 43	\$877 00	\$120 11	.....
2. Montgomery.....	57,567	1,200 00	1,570 66	4,534 54	250 66	\$196 36
3. Herkimer.....	56,356	999 97	*	713 84	241 09	*
4. Chemung.....	54,662	1,300 00	1,588 23	247 58	120 20	206 95
5. Ontario.....	52,286	3,000 00	*	.....	118 07	53 73
6. Wayne.....	50,179	1,100 00	722 12	652 00	106 70	.....
7. Clinton.....	48,230	1,000 00	703 16	175 03	118 06	98 00
8. Washington.....	47,778	458 33	790 59	681 69	135 68	233 93
9. Otsego.....	47,216	600 00	433 80	435 98	.....	160 70
10. Rockland.....	46,873	3,500 00	1,393 02	4,506 63	74 00	181 82
11. Franklin.....	45,717	1,200 00	768 59	258 38	129 13	.....
12. Delaware.....	45,575	1,200 00	81 74	62 01	147 55	.....
13. Fulton.....	44,534	1,200 00	916 38	650 61	233 49	84 35
14. Columbia.....	43,658	3,000 00	976 02	1,446 63	136 61	168 33
15. Allegany.....	41,412	1,000 00	122 62	558 65	155 14	137 15
16. Madison.....	39,289	500 00	528 30	294 00	985 98	129 71
17. Livingston.....	38,037	1,000 00	536 61	147 73	59 97	182 95
18. Genesee.....	37,615	1,000 00	1,009 53	342 80	*	*
19. Chenango.....	35,575	800 00	261 50	206 21	.....	113 61
20. Tompkins.....	33,647	1,000 00	*	537 94	99 88	129 82
21. Warren.....	32,223	1,000 00	731 99	1,030 89	147 23	.....
22. Cortland.....	29,249	600 00	.....	257 71	95 27	105 28
Totals.....	989,595	\$27,658 30	\$15,557 29	\$18,617 85	\$3,474 82	\$2,182 09
CLASS						
1. Sullivan.....	33,808	\$900 00	\$894 40	\$73 18	\$47 49	\$99 70
2. Essex.....	33,458	1,200 00	*	66 34	54 16	.....
3. Orleans.....	32,000	1,775 00	727 28	429 59	66 83	136 92
4. Wyoming.....	31,880	800 00	233 10	242 71	63 44	.....
5. Greene.....	30,214	1,600 00	*	435 72	75 91	.....
6. Seneca.....	26,972	1,250 00	575 35	116 07	415 30	102 30
7. Tioga.....	25,624	650 00	383 48	235 10	79 03	87 73
8. Lewis.....	24,849	850 00	416 79	156 72	27 14	70 90
9. Schoharie.....	23,855	500 00	221 84	142 78	53 57	.....
10. Yates.....	18,642	650 00	4 50	161 82	46 31	77 24
11. Putnam.....	14,665	1,800 00	245 39	521 91	32 72	.....
12. Schuyler.....	14,004	500 00	52 05	49 85	12 82	.....
13. Hamilton.....	4,373	1,500 00	*	.....	*	.....
Totals.....	314,344	\$13,975 00	\$3,754 18	\$2,631 79	\$974 52	\$574 79

\* Not reported.

EXPENSES, FISCAL YEAR 1914 *concluded*

TREASURER						
Court and trust fund fees	Returned tax fees	Total compensation of treasurer	Expenses for clerks and assistants	Incidental office expenses	Total cost of office to county	
IV						
\$73 78		\$4,493 32		\$1,900 34	\$6,393 66	1
20 31		7,772 53		1,259 64	9,032 17	2
*		1,954 90		565 69	2,520 59	3
37 28		3,500 24	\$2,100 00		5,600 24	4
*		3,171 80	735 00	781 59	4,688 39	5
172 19		2,753 01	493 26	881 26	4,127 53	6
131 41		2,225 66		397 10	2,622 76	7
36 75		2,336 97		217 53	2,554 50	8
40 80		1,671 28	370 55	830 94	2,872 77	9
.....		9,655 47	1,000 00	1,048 90	11,704 37	10
80 72		2,436 82	400 00	552 64	3,389 46	11
70 37		1,561 67		58 73	1,620 40	12
18 83		3,103 16	220 00		3,323 16	13
75 08		5,802 67	1,500 00	1,369 26	8,671 93	14
*		1,973 56		259 50	2,233 06	15
94 43		2,532 42	19 74	384 27	2,936 43	16
20 76		1,948 02	650 00	380 24	2,978 26	17
*		2,352 33		1,112 54	3,464 87	18
.....		1,381 32	300 00	189 42	1,870 74	19
*		1,767 64		149 37	1,917 01	20
9 36		2,919 47		678 91	3,598 38	21
21 35		1,079 61		81 50	1,161 11	22
<b>\$902 92</b>		<b>\$68,393 87</b>	<b>\$7,788 55</b>	<b>\$13,099 37</b>	<b>\$89,281 79</b>	
V						
\$62 06		\$2,076 83	\$499 98	\$379 34	\$2,956 15	1
*		1,320 50		428 28	1,748 78	2
17 08	\$84 00	3,236 50	186 67	744 60	4,167 77	3
*		1,339 25			1,339 25	4
*		2,111 63	550 00	172 21	2,833 84	5
*		2,459 02			2,459 02	6
*		1,435 34		165 00	1,600 34	7
18 93		1,540 48		379 90	1,920 38	8
16 74		934 93		189 13	1,124 06	9
*	*	939 87		115 00	1,054 87	10
75 12	240 50	2,915 64		111 95	3,027 59	11
.....		614 72	17 80	308 68	941 20	12
*		1,500 00	300 00	34 30	1,834 30	13
<b>\$189 93</b>	<b>\$324 50</b>	<b>\$22,424 71</b>	<b>\$1,554 45</b>	<b>\$3,028 39</b>	<b>\$27,007 55</b>	





3. He shall appoint all committees, except where the Convention shall otherwise order.

4. He may substitute any member to perform the duties of the chair during the absence or inability of both vice-presidents, but for no longer period than two consecutive legislative days, except by special consent of the Convention.

5. When the Convention shall be ready to go into Committee of the Whole, he shall name a chairman to preside therein, subject to right of the committee to elect its own chairman.

6. He shall certify the passage of all amendments by the Convention, with the date thereof.

7. He shall designate the persons who shall act as reporters for the public press, not exceeding thirty in number; but no reporter shall be admitted to the floor who is not an authorized representative of a daily paper. Such reporters, so appointed, shall be entitled to such seats as the President shall designate, and shall have the right to pass to and fro from such seats in entering or leaving the Assembly Chamber. No reporter shall appear before any of the committees in advocacy of, or in opposition to, anything under consideration before such committees. A violation of this rule will be sufficient cause for the removal of such reporter. Removal for this cause shall be vested in the President.

8. He shall not be required to vote in ordinary proceedings, except where his vote would be decisive. In case of a tie vote the question shall be lost. He shall have general control, except as provided by rule or law, of the Assembly Chamber and of the corridors and passages in that part of the Capitol assigned to the use of the Convention. In case of any disturbance or disorderly conduct in the galleries, corridors or passages, he shall have the power to order the same to be cleared, and may cause any person guilty of such disturbance or disorderly conduct to be brought before the bar of the Convention. In all such cases the members present may take such measures as they shall deem necessary to prevent a repetition of such misconduct, either by the infliction of censure or pecuniary penalty, as they may deem best, on the parties thus offending.

9. He shall also be *ex-officio* member and chairman of the Committee on Rules.

10. In the absence of the President, or his inability to preside, his duties shall devolve upon the First Vice-President, or, if he also be absent, upon the Second Vice-President.

The President and Vice-Presidents shall be consulting members, without vote, in the several committees to which they shall not have been specifically appointed.

## CHAPTER II

### Order of Business

Rule 3. The first business of each day's session shall be the reading of the Journal of the preceding day, and the correction of any errors that may be found to exist therein. Immediately thereafter, except on days and at times set apart for the consideration of special orders, the order of business shall be as follows:

1. Presentation of memorials. Under which head shall be included petitions, remonstrances and communications from individuals, and from public bodies.

2. Communications from the Governor and other State officers. Under this head shall be embraced also communications from public officers and from corporations in response to calls for information.

3. Notices, motions and resolutions, to be called for by districts, numerically.

4. Propositions for constitutional amendment, by districts, in numerical order.

5. Reports of standing committees in the order stated in Rule 15.

6. Reports of select committees.

7. Third reading of proposed constitutional amendments.

8. Unfinished business of general orders.

9. Special orders.

10. General orders.

Reports from the Committee on Revision and Engrossment may be received under any order of business.

## CHAPTER III

### Rights and Duties of Members

Rule 4. Petitions, memorials, remonstrances and any other papers addressed to the Convention shall be presented by the

President, or by any member in his place, read by their titles, unless otherwise ordered, and referred to the proper committee.

Rule 5. Every member presenting a paper shall indorse the same; if a petition, memorial, remonstrance or communication in answer to a call for information, with a concise statement of its subject, and his name; if a notice or resolution, with his name; if a proposition for constitutional amendment, with a statement of its title and his name; if a proposition of any other kind for the consideration of the Convention, with a statement of its subject, the proposer's name, and the reference, if any, desired. A report of a committee must be indorsed with a statement of such report, together with the name of the committee making the same, and shall be signed by the chairman. A report by a minority of any committee shall be signed by the members rendering the same.

Rule 6. Every member who shall be within the bar of the Convention, when a question is stated from the chair, shall vote thereon unless he be excused by the Convention, or unless he be directly interested in the question; nor shall the roll of absentees be more than once called. The bar of the Convention shall be deemed to include the body of the Convention chamber.

Rule 7. Any member requesting to be excused from voting may make, when his name is called, a brief statement of the reasons for making such request, not exceeding three minutes in time, and the Convention, without debate, shall decide if it will grant such request; or any member may explain his vote, for not exceeding three minutes; but nothing in this rule contained shall abridge the right of any member to record his vote on any question previous to the announcement of the result.

## CHAPTER IV

### Order and Decorum

Rule 8. No member rising to debate, to give a notice, make a motion, or present a paper of any kind, shall proceed until he shall have addressed the President and been recognized by him as entitled to the floor. While the President is putting a question or a count is being had, no member shall speak or leave his place; and while a member is speaking no member shall entertain any private discourse or pass between him and the Chair.

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Rule 9. When a motion to adjourn, or for recess, shall be carried, no member or officer shall leave his place till the adjournment or recess shall be declared by the President.

Rule 10. No persons, except members of the Convention and officers thereof, shall be permitted within the Secretary's desk, or the rooms set apart for the use of the Secretary, during the session of the Convention, and no member or other person shall visit or remain by the Secretary's table while the yeas and nays are being called, except officers of the Convention in the discharge of their duties.

## CHAPTER V

### Order of Debate

Rule 11. No member shall speak more than once on the same question until every member desiring to speak on such question shall have spoken; nor more than twice on any question without leave of the Convention.

Rule 12. If any member, in speaking, transgress the rules of the Convention, the President shall, or any member may, call to order, in which case the member so called to order shall immediately sit down, and shall not rise unless to explain or proceed in order.

Rule 13. All questions relating to the priority of one question or subject-matter over another, under the same order of business, the postponement of any special order, or the suspension of any rule, shall be decided without debate.

Rule 14. All questions of order, as they shall occur, with the decisions thereon, shall be entered in the Journal, and at the close of the day's session a statement of all such questions and decisions shall be printed at the close of and as an appendix to the Journal.

## CHAPTER VI

### Committees and Their Duties

Rule 15. The President shall appoint the following standing committees to report upon the subjects named and such others as may be referred to them, viz.:

1. On the bill of rights, to consist of eleven members.
2. On the Legislature, its organization, and the number, apportionment, election, tenure of office and compensation of its members, to consist of seventeen members.



3. On the powers, limitations and duties of the Legislature, except as to matters otherwise referred, to consist of seventeen members.

4. On the right of suffrage and the qualifications to hold office, to consist of seventeen members.

5. On the Governor and other State officers, their election or appointment, tenure of office, compensation, powers and duties, except as otherwise referred, to consist of seventeen members.

6. On the judiciary, to consist of seventeen members.

7. On the State finances, revenues, expenditures, and restrictions on the powers of the Legislature in respect thereto, and to public indebtedness, to consist of seventeen members.

8. On cities, their organization, government and powers, to consist of seventeen members.

9. On canals, to consist of eleven members.

10. On public utilities, to consist of seventeen members.

11. On counties, towns and villages, their organization, government and powers, to consist of seventeen members.

12. On county, town and village officers, other than judicial, their election or appointment, tenure of office, compensation, powers and duties, to consist of seventeen members.

13. On State prisons and penitentiaries, and the prevention and punishment of crime, to consist of eleven members.

14. On corporations and institutions, not otherwise herein specified, to consist of seventeen members.

15. On currency, banking and insurance, to consist of eleven members.

16. On the militia and military affairs, to consist of seven members.

17. On education and the funds relating thereto, to consist of seventeen members.

18. On charities and charitable institutions, to consist of seventeen members.

19. On industrial interests and relations, except those already referred, to consist of seventeen members.

20. On the conservation of the natural resources of the State, to consist of seventeen members.

21. On the relations of the State to the Indians residing therein, to consist of seven members.

22. On future amendments and revisions of the Constitution, to consist of seven members.

23. Revision and engrossment, to consist of seven members.

24. Privileges and elections, to consist of eleven members.

25. Printing, to consist of seven members.

26. Contingent expenses, to consist of seven members.

27. Rules, to consist of seven members, and the President.

28. On the civil service, to consist of eleven members.

29. On library and information.

30. On taxation, to consist of seventeen members.

Rule 16. The several committees shall consider and report, without unnecessary delay, upon the respective matters referred to them by the Convention. No favorable or adverse report by any committee, upon a proposed constitutional amendment, shall be made except by a majority of all the members of the committee. A minority of a committee may express its views in a report.

Rule 17. The Committee on Revision and Engrossment shall examine and correct the constitutional amendments which are referred to it, for the purpose of avoiding inaccuracies, repetitions and inconsistencies. It shall also carefully examine in the order in which they shall be directed by the Convention to be engrossed for a third reading, all constitutional amendments so engrossed, and see that the same are correctly engrossed, and shall immediately report the same in like order to the Convention before they are read the third time.

Rule 18. It shall be the duty of the Committee on Printing to examine and report on all questions of printing referred to them; to examine from time to time, and ascertain whether the prices charged for printing, and the quantities and qualities furnished, are in conformity to the orders of the Convention and to the conditions fixed by it; to ascertain and report the number of copies to be printed, and how distributed; and to report to the Convention from time to time, any measures they may deem useful for the economical and proper management of the Convention printing.

Rule 19. It shall be the duty of the Committee on Contingent Expenses to inquire into the expenditures of the Convention, and whether the same are being or have been made in conformity to law and the orders of the Convention, and whether proper

vouchers exist for the same, and whether the funds provided for the purpose are economically applied, and to report, from time to time, such regulations as may conduce to economy and secure the faithful disbursement of the money appropriated by law.

## CHAPTER VII

### General Orders and Special Orders

Rule 20. The matters referred to the Committee of the Whole Convention shall constitute the general orders, and their titles shall be recorded in a calendar kept for that purpose by the Secretary, in the order in which they shall be severally referred.

Rule 21. The business of the general orders shall be taken up in the following manner, viz.: The Secretary shall announce the title of each proposed amendment or other matter, as it shall be reached in its order, whereupon it shall be taken up on the call of any member, without the putting of a question therefor, but if not so moved, it shall lose its precedence for the day. And whenever three proposed amendments or other matters have been thus moved the Convention shall go into Committee of the Whole upon them without further order.

Rule 22. Tuesday and Thursday of each week shall be set apart especially for the consideration of the general orders; but they may be considered on any other day when reached in their order.

Rule 23. Each member shall be furnished daily with a printed list of the general orders, which shall be kept on his files by the Sergeant-at-Arms, in the same manner as other printed documents.

Rule 24. Any matter may be made a special order for any particular day, by the acceptance of the report of the Committee on Rules, or by a two-thirds vote, or by unanimous consent.

## CHAPTER VIII

### Committee of the Whole

Rule 25. Any matter may be committed to the Committee of the whole upon the report of a standing or select committee, or by unanimous consent at any time. Any committee may be discharged from the further consideration of any matter referred to it, and such matter may then be referred to the Committee of the

Whole, by a vote of the Convention.

as in the Committee of the Whole as in the rules shall be observed as the same are applicable, except that the ~~pre~~Convention, so far not apply, nor the yeas and nays be taken, nor question shall be made as to the number of times of speaking.

Rule 26. A motion to "rise and report progress" shall be in order at any stage, and shall be decided without debate. A motion to rise and report is not in order until each section and the title have been considered, unless the limit of time has expired.

Rule 27. Proposed constitutional amendments and other matters shall be considered in Committee of the Whole in the following manner, viz.: They shall be first read through, if the committee so direct; otherwise they shall be read and considered by sections. When the limit of time has expired, the amendments which have been proposed and not previously acted upon shall be voted upon in their order without further debate. The proposed constitutional amendment as amended shall then be voted upon without debate, and the committee shall then rise and report in accordance with the action which it has taken.

If the committee shall have adopted any proposed constitutional amendment, the same shall be reported complete with any amendments made in the committee incorporated in their proper places.

Rule 28. If at any time, when in Committee of the Whole, it be ascertained that there is no quorum, the chairman shall immediately report the fact to the President, who then takes the chair for the purpose of securing a quorum, and when that is obtained the chairman resumes his duties.

Rule 29. Should the committee not have completed the business before it rises, the chairman will report progress and ask leave to sit again.

## CHAPTER IX

### Proposed Amendments to the Constitution

Rule 30. No proposition for constitutional amendment shall be introduced in the Convention except in one of the following modes, viz.:

1. Under the order of introduction of propositions for constitutional amendment by districts, in numerical order.
2. By report of a committee.

Rule 31. The title of each proposition for constitutional amendment introduced shall state concisely its subject-matter. Matter which it is proposed to strike out shall be in brackets, and new matter shall be underscored and when printed shall be in italics. All proposed amendments shall be presented in duplicate.

Rule 32. All propositions for constitutional amendment, after their second reading, which shall be by title, shall be referred to a standing or select committee, to consider and report thereon, and shall be immediately printed and placed on the files of each member. All proposed constitutional amendments reported shall, if the report be agreed to, be committed to the Committee of the Whole and immediately printed. When a committee has reported that no amendment should be made to the provisions of the existing Constitution relating to any specified subject, and such report is agreed to, all propositions for constitutional amendment relating to that subject which have been referred to that committee shall be considered as rejected. All constitutional amendments proposed by a minority report from any committee shall be printed and placed on the files of the members of the Convention.

Rule 33. Proposed constitutional amendments reported by the Committee of the Whole shall be subject to debate before the question to agree with the committee on their report is put.

Rule 34. No proposed constitutional amendment shall be ordered to a third reading until it shall have been considered in Committee of the Whole.

Rule 35. No proposed constitutional amendment shall be put upon third reading until it shall have been reported by the Committee on Revision and Engrossment as correctly revised and engrossed, unless by unanimous consent. Nor shall any proposed constitutional amendment be read the third time, unless it shall have been once printed.

Rule 36. Every proposed constitutional amendment shall receive three separate readings, previous to its final passage, and the third reading shall be on a day subsequent to that on which the proposed constitutional amendment passed in Committee of the Whole.

Rule 37. The third reading of proposed constitutional amendments shall take place in the order in which they have been ordered to a third reading, unless the Convention, by a vote of two-thirds of the members present, direct otherwise, or the proposed constitutional amendment to be read is laid on the table. And the question on the final passage of every proposed constitutional amendment shall be taken immediately after such third reading, and without debate, but the vote on the final passage of every proposed amendment, revision or addition to the Constitution shall be taken by ayes and nays, which shall be entered on the Journal.

Rule 38. In all cases where unanimous consent is asked for advancing a proposed constitutional amendment out of its order, it shall be the duty of the President to plainly announce such request in full twice.

Rule 39. On the third reading of a proposed constitutional amendment, after the reading of the title, and before the reading of the text, the proposed constitutional amendment shall be open one hour, if required, for debate on its merits, before the previous question shall be ordered; but no member shall speak more than five minutes or more than once; the vote, however, may be taken at any time when the debate is closed.

Rule 40. On the third reading of the proposed Constitutional amendment, no amendment thereto shall be in order, except to fill blanks, without unanimous consent.

Rule 41. A motion may be made during the third reading of any proposed constitutional amendment to recommit it, and such motion shall not be debatable.

Rule 42. A register shall be kept by the Secretary of all proposed constitutional amendments introduced in the Convention, in which shall be recorded, under appropriate heads, the progress of such proposed constitutional amendments from the date of their introduction to the time of their final disposition.

Rule 43. In all cases where a proposed constitutional amendment, order, motion or resolution shall be entered on the Journal, the name of the member introducing or moving the same shall also be entered on the Journal.

## CHAPTER X

### Motions and Their Precedence

Rule 44. When a question is under consideration, the following motions only shall be received; which motions shall have precedence in the order stated, viz.:

Motions to, or for:

- |                                                                                                                                                                                                                                                                                       |   |                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------------------------------|
| <ol style="list-style-type: none"> <li>1. Adjourn for the day.</li> <li>2. Recess.</li> <li>3. Call of the Convention.</li> <li>4. Previous question.</li> <li>5. Lay on the table.</li> </ol>                                                                                        | } | Not amendable or debatable.        |
| 6. Postpone indefinitely, not amendable, but debatable.                                                                                                                                                                                                                               |   |                                    |
| <ol style="list-style-type: none"> <li>7. Postpone to a certain day.</li> <li>8. Go into Committee of the Whole.</li> <li>9. Commit to Committee of the Whole.</li> <li>10. Commit to a standing committee.</li> <li>11. Commit to a select committee.</li> <li>12. Amend.</li> </ol> | } | Preclude debates on main question. |

Rule 45. Every motion or resolution shall be stated by the President or read by the Secretary before debate, and again, if requested by any member, immediately before putting the question; and every motion, except those specified in subdivisions 1 to 11, inclusive, of rule 44, shall be reduced to writing if the President or any member request it.

Rule 46. After a motion shall be stated by the President, it shall be deemed in the possession of the Convention, but may be withdrawn at any time before it shall be decided or amended.

Rule 47. The motion to adjourn, to take a recess, and to adjourn for a longer period than one day, shall always be in order; but the latter motion shall not preclude debate.

Rule 48. A motion to reconsider any vote must be made on the same day on which the vote proposed to be reconsidered was taken, or on the legislative day next succeeding, and by a member who voted in the majority, except to reconsider a vote on the final passage of a proposed constitutional amendment, which shall be

privileged to any member. Such motion may be made under any order of business, but shall be considered only under the order of business in which the vote proposed to be reconsidered occurred. When a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be twice reconsidered; nor shall any vote be reconsidered upon either of the following motions:

To adjourn.

To lay on the table.

To take from the table; or

For the previous question.

Rule 49. No amendment to a motion shall be received while another is pending, unless it be an amendment to the amendment and germane to the subject.

## CHAPTER XI

### Of Resolutions

Rule 50. The following classes of resolutions shall lie over one day for consideration, after which they may be called up, as of course, under their appropriate order of business:

1. Resolutions giving rise to debate, except such as shall relate to the disposition of business immediately before the Convention, to the business of the day on which they may be offered or to adjournments or recesses, shall lie over one day for consideration, after which they may be called up, as of course, under their appropriate order of business.

2. Resolutions containing calls for information from any of the executive departments, from State, county or municipal officers, or from any corporate bodies, shall be referred to the appropriate committee. Such committee shall report thereon within three legislative days.

Rule 51. All resolutions for the printing of an extra number of documents shall be referred, as of course, to the standing Committee on Printing, for their report thereon before final action by the Convention.

Rule 52. All resolutions authorizing or contemplating expenditures for the purposes of the Convention shall be referred to the standing Committee on Contingent Expenses, for their report thereon before final action by the Convention.



## **CHAPTER XII**

### **The Previous Question**

Rule 53. The “previous question” shall be put as follows: “Shall the main question now be put?” and until it is decided, shall preclude all amendments or debate. When, on taking the previous question, the Convention shall decide that the main question shall not now be put, the main question shall be considered as still remaining under debate. The “main question” shall be on the passage of the proposed amendment to the Constitution, resolution or other matter under consideration, but when amendments thereto are pending, the question shall first be taken upon such amendments in their order, and when adopted in Committee of the Whole, and not acted on in the Convention, the question shall be taken upon such amendments in like order.

## **CHAPTER XIII**

### **The Convention Chamber and Privileges of Admission to the Floor**

Rule 54. The following classes of persons, besides officers and members of the Convention, shall be entitled to admission to the floor of the Convention during the session thereof, viz.:

1. Governor, Lieutenant-Governor, and ex-Governors of the State.
2. Judges of the Court of Appeals and of the Supreme Court.
3. Members of former Constitutional Conventions.
4. The members of the Senate and Assembly and ex-Speakers.
5. The State officers, deputies and commissioners.
6. The Regents of the University.
7. United States Senators and Congressmen.
8. The Capitol Commissioners.
9. Persons in the exercise of an official duty directly connected with the business of the Convention.
10. The reporters for the press, as provided by subdivision 7 of rule 2.

No other person shall be admitted to the floor during the session, except upon the permission of the President or by vote of the Convention; and persons so admitted shall be allowed to occupy places only in the seats in the rear of the Assembly Chamber. All permits granted by the President may be revoked by him at pleasure,

or upon the order of the Convention. No person shall be entitled to the privileges of the floor of the Convention as a legislative reporter of a newspaper who is interested in pending or contemplated constitutional revision, or who is employed by, or receives compensation from, any corporation, except a newspaper, news or press association. The doors of the Convention shall be kept open to the public during all its sessions.

## CHAPTER XIV

### General Rules

Rule 55. Equivalent motions, resolutions or amendments thereto, shall not be entertained. If any question contains several distinct propositions, it shall be divided by the Chair at the request of any member, but a motion to "strike out and insert" shall be indivisible.

Rule 56. All proposed action touching the rules and orders of business shall be referred, as of course, to the Committee on Rules; such committee may sit during the session of the Convention without special leave, and report at any time on rules or order of business so referred to them. It will be in order to call up for consideration at any time a report from the Committee on Rules. Any member may object to its consideration until the next legislative day, and, if sustained by twenty-four other members, the consideration shall be so postponed, but only once. Pending the final consideration thereof, but one motion, except by unanimous consent, that the Convention adjourn, may be entertained, and no other dilatory motion shall be entertained until such report is fully disposed of. A motion to suspend the rules shall in all cases state specifically the object of the suspension, and every case of suspension of a rule under such notice and motion shall be held to apply only to the object specified therein. Provided that when ordered so to do by the Convention a standing committee shall make a report on a constitutional amendment or other subject, the Committee on Rules shall report a rule limiting the time for debate; and upon such report no member shall speak more than once, nor more than five minutes. Such report shall stand as the time limited for debate on the subject-matter referred to in such rule, and the previous question or other motion to close debate shall not be in order until the expiration of the time so allotted,

or the debate has been closed; the time thus allotted for debate shall be equally divided between those in favor and those opposed to the subject-matter under consideration. All questions or motions authorized by this rule shall be decided at once without delay or debate, except as herein expressly allowed.

Rule 57. The yeas and nays may be taken on any question whenever so required by any fifteen members (unless a division by yeas and nays be already pending), and when so taken shall be entered on the Journal.

Rule 58. When the Convention shall be equally divided on any question, including the President's vote, the question shall be deemed to be lost.

Rule 59. In considering the report of the Committee on Revision and Engrossment, each article shall be open to amendment germane to such changes as may have been reported by the committee, without previous notice, but no one shall speak more than five minutes, or more than once, on any proposition to amend.

Rule 60. When a blank is to be filled and different sums or times shall be proposed, the question shall be first taken on the highest sum and the longest time.

Rule 61. A majority of the Convention shall constitute a quorum. In all cases of the absence of members during its sessions, the members present shall take such measures as they shall deem necessary to secure the presence of absentees, and may inflict such censure or pecuniary penalty as they may deem just on those who, on being called on for that purpose, shall not render sufficient excuse for their absence. No constitutional amendment shall be adopted unless by the assent of a majority of all the members elected to the Convention.

Rule 62. For the purpose of securing the attendance of members, a call of the Convention may be made, but such call shall not be in order after the main question has been ordered, nor after the voting on any question has commenced, nor after the third reading of an amendment has been completed.

Rule 63. When less than a quorum vote on any subject under consideration by the Convention, it shall be in order, on motion, to close the bar of the Convention, whereupon the roll of members shall be called by the Secretary, and if it is ascertained that a quorum is present, either by answering to their names or by their

presence in the Convention, the yeas and nays shall again be ordered by the President, and if any member present refuses to vote, such refusal shall be deemed a contempt, and any member or members so offending shall be cited before the Committee on Privileges and Elections, which, after inquiry, shall report to the Convention for such action as the facts shall seem to warrant, and, unless purged, the Convention may order the Sergeant-at-Arms to remove said member or members without the bar of the Convention, and all privileges of membership shall be refused the person or persons so offending until the contempt be duly purged.

Rule 64. Whenever any person shall be brought before the bar of the Convention for adjudged breach of its privileges, no debate shall be in order, but the President shall proceed to execute the judgment of the Convention without delay or debate.

Rule 65. It shall be the duty of the Secretary to keep the Journal of each day's proceedings, which shall be printed and laid on the table of members on the morning after its approval. In addition to his other duties, he shall prepare and supervise the printing of the calendars of the orders of the day and cause them to be placed on the files before the beginning of each day's session. All appointments of officers and employees shall be entered on the Journal of the Convention, with the date of appointment.

Rule 66. It shall be the duty of the stenographer of the Convention to be present at every session of the Convention. He shall take stenographic notes of the debates in the Convention and in Committee of the Whole and shall, at each day's session of the Convention, furnish a copy of the debates of the day before, written out in long-hand, and file the same with the Secretary, who shall keep the same in his office, and the same shall at all times be open to the inspection of delegates.

Rule 67. At a reasonable time, to be determined by the Convention, and at least five days before final adjournment, the Committee on Revision and Engrossment shall be instructed to accurately enroll and engross the present State Constitution, with all amendments thereto properly inserted, or the proposed new Constitution; and the same shall be reported by said committee to the Convention, read through therein, and submitted to a final vote prior to its final adjournment. When an article of the Constitution is amended, or a new article substituted or added, such

amended article, or new article, shall be enrolled and engrossed entire in its proper place in the Constitution.

## CHAPTER XV

### Miscellaneous Provisions

Rule 68. The Sergeant-at-Arms shall, under the direction of the Committee on Printing, receive from the printer all matter printed for the use of the Convention, and keep a record of the time of the reception of each document, and the number of copies received, and cause a copy of each to be placed on the desk of each member immediately after their reception by him. Subject to the direction of the President, he shall enforce the rules of the Convention.

Rule 69. Separate files of the daily Journal, reports of the committees and of all documents ordered to be printed shall be prepared and kept by the Sergeant-at-Arms, and one copy shall be placed upon the desk of each member of the Convention and of the Secretary.

Rule 70. There shall be printed as of course and without any special order 1,500 copies of the journal, 500 copies of the calendar, 2,500 copies of each proposed constitutional amendment, and 3,500 copies of each report and minority report of a committee on the subject of constitutional revision or amendment in which are set forth the reasons for their recommendation, to be printed as documents; 500 copies of each other document; and 3,500 copies of the record of the proceedings of the convention.

Rule 71. The printed copies provided for in Rule 70 shall be disposed of as follows:

There shall be reserved for binding 1,200 copies of the journal, 1,200 copies of the reports, 1,200 copies of the record of the proceedings.

The copies so reserved for binding shall be folded, collated and held by the printer until the close of the Convention, when they shall be bound as directed by the President or the Convention, and distributed as follows:

To each member of the Convention, two copies.

To the State Library, five copies.

To the Legislative Library, five copies.

To the office of each county clerk, one copy.

To each public library of the State, one copy.

To each bar association of the State, one copy.

To each college and university of the State, one copy, and the remaining copies shall be distributed as designated by the President or the Convention.

The printed copies provided for in Rule 70 and not reserved for binding shall be disposed of as follows:

One copy of each shall be placed upon the file of each member of the Convention, and one additional copy shall be delivered or mailed to each member as he shall direct.

Two copies of each shall be placed in the Legislative Library for use of members of the Convention.

One hundred copies shall be reserved for the use of the officers of the Convention, the State Library, the Department of Education, the Legislative Index Publishing Company, and the document room reserve.

Copies of the proposed constitutional amendment, of the reports and of the record shall be mailed daily to daily newspapers and weekly to all other newspapers and to each public library of the State, each bar association of the State, each law school of the State, each college and university of the state, and to such other institutions, newspapers and individuals as shall apply therefor and can be supplied from the number printed not necessary for the current work of the Convention.

Two copies of proposed constitutional amendments and two copies of reports for each member of the committees having duty in relation thereto shall be delivered to the clerk of such committees.

The balance of printed copies provided for and not reserved for binding shall be distributed in the order of application therefor by the members of the Convention.

Rule 72. The officers of the Convention appointed by the President shall perform such duties as he may prescribe, and for any breach of duty any such officer may be removed and his successor appointed by the President. The officers of the Convention appointed by the Secretary shall perform such duties as he may prescribe, and for any breach of duty any such officers may be removed and his successor be appointed by the Secretary.



**STATE OF NEW YORK**

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**IN CONVENTION**

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**DOCUMENT**

**No. 11**

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**JOINT MEETING OF THE COMMITTEES ON GOVERNOR  
AND OTHER STATE OFFICERS AND STATE  
FINANCES WITH HON. WILLIAM HOWARD TAFT,  
EX-PRESIDENT OF THE UNITED STATES**

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THE SENATE CHAMBER, THE CAPITOL

ALBANY, N. Y., *June* 10, 1915, 8:10 o'clock P. M.

Mr. TANNER.—Gentlemen, the meeting will be in order.

I think I shall ask Mr. Stimson, Mr. Taft's former Secretary of War, to introduce him, as far as an introduction is necessary for Mr. Taft. (Applause.)

Mr. STIMSON.—Gentlemen of the two committees and other delegates: I don't think that Mr. Taft needs any introduction to this assembly. He has been invited and has very kindly come to speak of his experiences in regard to the Federal budget. I think I am not mistaken in saying that he is the only American President who ever attempted to create a really scientific budget of the Federal expenditures. That is the part of what he has to say that has connection with the Committee on State Finances. He also as an executive has had experience surpassing that of















Mr. RHEES.— Might I ask one question? What auditing function is there in the United States government which has any independence of the executive?

Mr. TAFT.— Practically none. The Comptroller of the Treasury is at the head of the auditors. There are appeals from the six auditors of the treasury to the Comptroller of the Treasury, who puts the final audit, and there is practically nothing independent of the executive.

Mr. RHEES.— Is the Comptroller of the Treasury charged with the duty of certifying all payments from the treasury?

Mr. TAFT.— He is charged with the duty of countersigning every warrant, and nothing is taken out of the—no warrant is honored by the Treasurer except on his certificate.

Mr. STIMSON.— But by custom, Mr. President, he is treated as a very independent officer?

Mr. TAFT.— Oh, yes. Congress has made him, as I say, a quasi-judicial tribunal with respect to claims and with respect to compliance with law, but he is appointed by the President and may be removed by the President.

Mr. STIMSON.— But, as a matter of fact, that has never happened within the memory of any of us?

Mr. TAFT.— Oh, no; I don't remember—

Mr. STIMSON.— And he often makes very embarrassing decisions when he stops the various cabinet officers from spending money? Spending what they would like to spend?

Mr. TAFT.— Yes, he does.

Mr. STIMSON.— I saw the other day he just stopped a very important expenditure of money in the War Department on these manoeuvre camps. Nobody thinks of removing him because he does that?

Mr. TAFT.— No. As a general rule, the Comptroller of the Treasury is regarded as quite an independent officer, and frequently executive policy is determined by sending over to the













I became convinced that there was no hope of real economy in the Federal government unless Congress passed an act giving to the executive the power and the means to prepare a full statement of the expenditures for which he was willing to become responsible, after consultation with his cabinet, and then a full statement as to how those expenditures were to be met. And then, having made himself responsible for that, give him the opportunity to send his representatives on the floor of the House to accompany those bills through both houses and argue out the question. But it is objected that that won't work. Well, I think it will. There have been two committees of the ablest men in Congress, one in the House and one in the Senate, have recommended that system; and while it is not the English system, in that they are not members of the House, Congress has the power to give them every function and every faculty that a member of the House has, except that of voting. I observe Mr. Fitzgerald thinks they won't be there. Well, I think they will be there if they are interested in defending the administration, and I think they will take part in a running debate. I know some members of the cabinet that would like to. I know some that would like to get there. (Laughter.) It is not pleasant being pounded at the other end of the avenue without having an opportunity to explain, and I think they would be on the floor and I think that they would really help Congress with reference to the actual facts of the running of each department and the actual question of what expenditures are necessary and what are not.

MR. STIMSON.—Isn't it a fact, within the notice of everybody who has watched the debates, that Congress has debated for hours and days over a question which a single answer from the man who knew would put an end to?

MR. TAFT.—Oh, yes; often; often. The budget ought to state the expenses in such a way as to show them in several different forms, so as to bring to the attention of Congress how much money is to be expended for particular activities, so that the President, in recommending what the expenses shall be, may be able to point out that he has saved here in order that this activity may not suffer, and that the other may be cut down without damage; so that he may give to Congress the sense of proportion that





















criticize its own work where in the method you propose Congress would be criticizing the work of the executive?

Mr. TAFT.— Yes; that is it exactly; it would.

Mr. STIMSON.— And it would therefore do it much more thoroughly?

Mr. TAFT.— That is it, exactly. Mr. Fitzgerald — I am a great admirer of Mr. Fitzgerald. He got up and told the truth in Congress once. (Laughter.) He said — well, that's a very good record. (Laughter.) He said, "Gentlemen, this business of appropriating money as we have gone on with it in this House and in this Congress, is a horrible mess." And it was, and it is (laughter) under the system that there prevails. I did not mean to limit Mr. Fitzgerald (laughter) in his truthful statements; but that one impressed me. (Laughter.)

Mr. STIMSON.— Have any of the gentlemen of the Committee any questions that they would like to ask Mr. Taft?

Mr. PARSONS.— Mr. President — I would like to ask a question.

Mr. TAFT.— How do you do, Mr. Parsons?

Mr. PARSONS.— One of the arguments in favor of the present system is that the passing of an appropriation bill is a legislative function, and that our system of government leads to the separation of the executive from the legislative. You said in the Philippines, you were as an executive also in the legislative branch of the government. Did you find that worked well or ill?

Mr. TAFT.— I thought it worked well. I have no nightmare about this union of the legislative and the executive. I think it is not well to be dogmatic on such a proposition. I think one of the difficulties we find in our government is the rigid exclusion or the attempt to make a rigid separation between the two, and I think there might be greater union, with greater efficiency in the matter of government on the one hand, and greater economy.

Mr. PARSONS.— When the fundamental law for the government of the Philippines was to be drafted, you had to do with it, and that distinction was obliterated, was it not?











STATE OF NEW YORK

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IN CONVENTION

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DOCUMENT

No. 12

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REPLY OF THE LIEUTENANT-GOVERNOR AND ACTING  
GOVERNOR TO RESOLUTION OF THE CONVENTION

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STATE OF NEW YORK — EXECUTIVE CHAMBER

ALBANY, *June 8, 1915*

HON. JESSE S. PHILLIPS, *Chairman, Library Information Com-  
mittee, Constitutional Convention, Albany, N. Y.:*

Dear Sir.— In reply to the resolution adopted by the Consti-  
tution Convention on May 20, 1915, I have the honor to make the  
following report:

1. The number of prisoners confined in the several State  
prisons, reformatories and penitentiaries of the State on January  
2, 1915, was:

Sing Sing prison, Ossining.....	1,563
Auburn prison, Auburn.....	1,462
Clinton prison, Dannemora.....	1,386
Great Meadow prison, Comstock.....	641
Women's prison, Auburn.....	107

Dannemora State Hospital, Dannemora.....	321
Matteawan State Hospital, Beacon.....	149
State Farm for Women, Valatie.....	31
New York State Reformatory, Elmira.....	1,886
Eastern New York Reformatory, Napanoch.....	447
New York State Reformatory for Women, Bedford...	421
Western House of Refuge for Women, Albion.....	244
Albany County Penitentiary, Albany.....	546
Erie County Penitentiary, Buffalo.....	1,021
Monroe County Penitentiary, Rochester.....	471
New York County Penitentiary, Blackwell's Island...	2,115
Onondaga County Penitentiary, Jamesville.....	506
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Total . . . . .	12,817
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2. The number of applications for pardon and commutation of sentence, respectively, filed in the Executive Department during each of the years from 1900 to 1915:

Year	New Applications	Year	New Applications
1900.....	267	1908.....	252
1901.....	251	1909.....	340
1902.....	218	1910.....	347
1903.....	202	1911.....	381
1904.....	286	1912.....	743
1905.....	310	1913.....	662
1906.....	373	1914.....	655
1907.....	277	<hr/> <hr/>	

(Note.) The foregoing are new applications only, and at least fifty per cent. of the old applicants which would be about 800 who apply each year.

3. The number of pardons and commutations granted or refused in each of the said years:

Year	Granted	Refused	Respites
1900.....	41		2
1901.....	47		3
1902.....	44		2
1903.....	48		6
1904.....	46	From	1
1905.....	66	200	1
1906.....	67	to	3
1907.....	15	400	0
1908.....	14	each	0
1909.....	19	year.	2
1910.....	22		3
1911.....	55		3
1912.....	78		5
1913.....	8		1
1914.....	24		7

4. The number of applications for pardons and commutations of sentence, respectively, pending and undetermined in the Executive Department on January 1, 1915, was 1,396.

5. The number of applications for pardon and commutation of sentence filed since January 1, 1915, is 160.

6. The number of applications for pardon and commutation of sentence disposed of and the disposition made of them since January 1, 1915, is as follows:

Pardoned . . . . .	5
Commuted . . . . .	8
Respited . . . . .	2
Denied, about . . . . .	20

The Governor also examines thoroughly all capital cases. The number passed on and denied since 1900 is:

Year	No.
1900.....	3
1901.....	7
1902.....	3
1903.....	13
1904.....	8
1905.....	7
1906.....	0
1907.....	8
1908.....	6
1909.....	12
1910.....	12
1911.....	13
1912.....	22
1913.....	13
1914.....	11
1915, until June 1st.....	7

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All of which is respectfully submitted.

EDWARD SCHOENECK,  
*Lieutenant-Governor and Acting Governor.*























have come, to cutting the estimate down or preventing them from increasing it.

Mr. BEACH.—Can you state how many changes of executives take place when there is a change in administration, under the English government?

Doctor GOODNOW.—I cannot tell you in actual numbers. My impression is that, including the officers of the household, there are not more than one hundred. About one hundred counting the heads of departments and then the officers of the household. There are comparatively few. The secretaries and the political under secretaries are about the only ones.

Mr. STIMSON.—That provision which you read from your draft of the constitution of China, is that substantially the same as the provision in the constitution of Canada?

Doctor GOODNOW.—Substantially, yes. It goes into a little more detail.

Mr. STIMSON.—Of course it mentions the President instead of the Premier?

Doctor GOODNOW.—Yes.

Mr. PELLETREAU.—What are the advantages of the English system of the members of the Cabinet being likewise members of the House of Commons or of the House of Lords?

Doctor GOODNOW.—Of course the advantage then is that they are always present in the Legislature, or may be present in the Legislature, when any important matter comes up. And, inasmuch as the English system is really a system in accordance with which the initiative is given to the administration and the Legislature is merely to exercise a controlling influence, why, it is necessary, of course, it is only fair, to give to the Cabinet, which has the initiative plan, the right to support it in the Legislature.

Mr. STIMSON.—Will you describe how that is done; what the proceedings are when the budget is introduced in the House of Commons?

Doctor GOODNOW.—Well, I can do it only in a very general way.



Doctor GOODNOW.— But I think, of course, there — take it in our government, in the Federal government, and I think in the State, the estimates run, under present practice we will consider — that is, I know in the Federal government almost everybody puts in an estimate much larger than he expects to get, because, as a general principle, they are going to be cut down.

Mr. STIMSON.— That was the testimony as to what was done here?

Doctor GOODNOW.— Yes.

Mr. STIMSON.— The witnesses have told us that they are uniformly so high that the Legislature began over again with little regard to the aggregate of the estimates submitted.

Doctor GOODNOW.— I do not think that is true in Great Britain. The attempt there is to make the estimate nearer what is absolutely necessary. Of course, there may be debatable items upon which money might or might not be spent, but, as a general thing, the estimates are a serious attempt to find out what the needs of the administration are, and in this country they are not.

Mr. STIMSON.— The estimates, when they are submitted, after this Cabinet revision in Great Britain, present an issue which the government is ready to stand on.

Doctor GOODNOW.— Yes, sir.

Mr. STIMSON.— They do not expect it to be cut down?

Doctor GOODNOW.— No, sir; and if they should be cut down the government would resign.

Mr. STIMSON.— They present a subject for real debate?

Doctor GOODNOW.— Yes, sir.

Mr. TANNER.— You have mentioned what would be a force assisting the government, for the purpose of assisting the Governor, in making up this estimate. What is your idea as to the composition of that Board? Would it be heads of the departments? Would it be men who in the Federal government would be Cabinet members, or who?



a point beyond which he cannot go? Isn't that the way it is really worked out?

Doctor GOODNOW.—Well, I don't think it has been until recently, because we have never had the necessity in the Federal government of saving money. That is, our revenues have come in as a result of the collection of taxes which have not been imposed for fiscal purposes. They have been imposed,—a protective tariff, for example, has been imposed, not to bring in money particularly, but for other purposes; and, as you know, in the history of the country, sometimes a great issue has been the disposition of a surplus and it has only been in recent years where it has come to the point where it has been necessary for the President to exercise any particular supervision, and as the law stands at the present time he can not, except under his constitutional powers, control the estimates that are to go in at times.

Mr. NICOLL.—Did you state to what extent the estimates are itemized under the English system?

Doctor GOODNOW.—They are not itemized nearly as much as our estimates are; that is, not on the face of them, but they refer to certain schedules which do go into a considerable detail, but the schedules are not regarded so much as an itemized appropriation that is controlling; and it would be regarded as proper to transfer balances from unexpended items to items where the expenditure might be more desirable. That is, they have adopted more over there the system that has been adopted in some of the departments of the Federal government, which is called there the lump fund appropriation.

Mr. STIMSON.—In regard to Mr. Tanner's question, really the first attempt made by any President to regulate the estimates was done at the time you were on that committee of economy and efficiency?

Doctor GOODNOW.—Yes; under Mr. Taft; under an act of 1908.

Mr. STIMSON.—Nineteen hundred and nine, I think, to be exact.



Doctor GOODNOW (reading.)—The rule of the House of Commons is that “the House will receive no petition for any sum relating to public service, or proceed upon any line for a grant or charge upon the public revenue unless recommended by the Crown;” and the Act of 1867 for the Dominion of Canada, it reads:

“It shall not be lawful for the House of Commons to adopt or pass any vote, resolution or address, or bill, for the appropriation of any part of the public revenue, or of any tax or imposts for any purpose that has not been first recommended to that House by a message of the Governor General in the session in which such vote, resolution, address or bill is proposed.”

Of course, you see the House of Commons did not consider—way back in 1713—that that was a violation of its prerogative; it was a self-denying ordinance. It simply saw the necessity of something of that sort and said, “We will not vote any money except as proposed to it by the persons who are responsible for the expenditure of money.”

Mr. STIMSON.—That has been lived up to inviolately ever since?

Doctor GOODNOW.—Yes, sir.

Mr. STIMSON.—For 200 years?

Doctor GOODNOW.—For 200 years.

Mr. AUSTIN.—Doctor, if I may ask you a question, I want to say that the system of an executive budget appeals to me as being good. So far as the State of New York is concerned, there is only one difficulty in the way, according to my mind, and that arises from this situation: It seems to me that—of course, a budget to be of any real use, must be made up by a person having knowledge of the facts. In Great Britain I think it is a fact that a Cabinet, when there is a change of government, is nearly always made up of persons who have been connected with governmental affairs, and, whatever their political affiliations may be, they are familiar with the needs of government so far as its maintenance is concerned. In this State we all know that every two years we have a change of government, and very frequently





very soon a vast mass of information which would help the Governor and he would also have the help of those people. And those people, I think would necessarily have permanent positions. Even under our system of changing officers pretty frequently we know that in almost every department there is some man who is the wheel horse of the party who stays there no matter what may be the political power.

Mr. STIMSON.— That is true of Mr. Fitzgerald's work.

Doctor GOODNOW.— Yes.

Mr. STIMSON.— Mr. Cortes knows more about appropriations even than Mr. Fitzgerald?

Doctor GOODNOW.— Yes. He has been there longer.

Mr. AUSTIN.— The point I was getting at, is, if you established a budget system, it would seem to me that some permanent investigatory body is necessary?

Doctor GOODNOW.— Yes.

Mr. AUSTIN.— Without that it would be useless, not necessarily useless, but its usefulness would be greatly diminished?

Doctor GOODNOW.— The same thing is true in New York in the Board of Estimate and Apportionment. In the case of a new election where the party is changed, the body is completely changed, but there is there a permanent staff that helps them to deal intelligently with the estimates that come up from the various departments.

Mr. STIMSON.— It would be helpful if the Governor's term were four years instead of two?

Doctor GOODNOW.— Yes.

Mr. STIMSON.— That would be a step in the direction of better budget making?

Doctor GOODNOW.— Yes, it would.

Mr. TANNER.— The Committee on Governor and Other State Officers have confined themselves up to this point to study-

















Mr. BOCKES.—That is true where he is subject to a party convention control, but in this State we have done away with conventions, so that our Governor is simply a man and has not even the advice of a party any more.

Doctor GOODNOW.—He will have it pretty soon. I do not believe that you have done away with parties at all.

Mr. BANNISTER.—Doctor Goodnow, how many choices are ever given to the English elector? Isn't he practically confined to voting for one or two men?

Doctor GOODNOW.—The only choice that any particular elector has at any parliamentary election is to vote for one, unless he —

Mr. STIMSON.—He sometimes has votes, in two or three localities?

Doctor GOODNOW.—Yes.

Mr. BANNISTER.—Is there any doubt that the government of England is more democratic than our own?

Doctor GOODNOW.—It is more responsive of their opinion than our own.

Mr. BANNISTER.—That is what I mean by democratic?

Doctor GOODNOW.—Yes.

Mr. BANNISTER.—If the electors of England want anything can't they get it quicker than we can?

Doctor GOODNOW.—Yes; I think they do ordinarily.

Mr. BOCKES.—One more question I want to ask with regard to the first part of your remarks. Are there any states in the Union now where the executive, or appointees of the executive or Board of Estimate originates bills for raising revenue, and still retain in the executive the power of veto?

Doctor GOODNOW.—Well, my remarks were confined more to the estimates of expenditures than to revenue, but in a number of states there is provision made for this sending out of the estimates by the Governor. The only trouble with the method as worked out in actual practice, is that inasmuch as the Governor is not



any practice that were to be deprecated in the departments, and they called the attention of the persons who drew up the estimates to those practices and had them corrected. He thought it was a very valuable thing, and that would be in line with your suggestion.

Mr. STIMSON.— That is done in our cities now. The Comptroller of the city, who is the auditing officer of the city, has the same power and is used, I know, in making up the budget for New York City, in preparing the estimates.

Mr. WAGNER.— They have a standing committee, haven't they in the Board of Estimate, a budget committee, haven't they?

Doctor GOODNOW.— Yes.

Mr. STIMSON.— They have in the City of New York, for instance, a series of expert accountants, under the Mayor, known as the Commissioners of Accounts, and then in addition to them they use also the subordinates in the Comptroller's office.

Mr. WAGNER.— I do not think the Commissioner of Accounts has anything to do with the making up of the appropriations.

Mr. STIMSON.— I understood from Mr. Prendergast that they assisted the Mayor in it.

Mr. WAGNER.— I thought they had created a special budget committee in the Board of Estimate.

Doctor GOODNOW.— There is a budget committee and there is a regular force of engineers, accountants, etc.

Mr. WAGNER.— That is under that committee, isn't it?

Doctor GOODNOW.— Yes.

Mr. WAGNER.— Under that budget committee, that is what I mean?

Doctor GOODNOW.— Yes.

Mr. STIMSON.— Do you see any objection to their having help in the shape of experts' help to assist wherever authorities actually get up the budget?

Doctor GOODNOW.— They ought to have it.



Doctor GOODNOW.— Of course, you are right, Mr. Tanner, that if you keep this system that you now have it would be a desirable thing for the Governor to have the power not only to cut out an item but to reduce it if he saw fit.

Mr. TANNER.— I think so. I was just asking if the power were carried further if there would still not be some advantage in his having the right to reduce. I do not see what harm it could do, and it might do some good.

Doctor GOODNOW.— Yes.

Mr. STIMSON.— There would be no assumption that the power would always remain as now.

Doctor GOODNOW.— No.

Mr. STIMSON.— And that is the system you characterize as the cart before the horse?

Doctor GOODNOW.— Yes.

Mr. STIMSON.— Isn't it a little worse than that? Doesn't that system amount to turning over to the Governor the real legislative power of the State in the control of the purse?

Doctor GOODNOW.— Of course, it is totally contrary to the historical development of the English idea with regard to it. The English idea was not so much that the Legislature or House of Commons was opposed to it, but it was to prevent the King from spending too much.

Mr. STIMSON.— In other words, the centuries-long fight for the control of the purse was in order that the people's representatives in the Legislature should have the say of how much money should be spent.

Doctor GOODNOW.— Yes.

Mr. STIMSON.— And this system which we are drifting into, is that the Legislature pass appropriations which we know are too large and let the Governor cut them down?

Doctor GOODNOW.— Yes.



United States government for what it does than they do for what other single State governments do in this country?

Mr. HALE. Except Vermont.

Doctor GOODNOW.—Vermont has 400,000 inhabitants.

Mr. CULLINAN.—Doctor, the United States government is composed of a series of states, the composition of the government is of such a character that it is impossible for them to vote for the members of the cabinet, you might say, who correspond to our elective State officers.

Doctor GOODNOW.—But supposing it is, isn't it true that at the present time every American citizen knows that when the United States government does a thing it is going to do it better than the State government?

Mr. WAGNER.—I don't think so.

Mr. CULLINAN.—In some respects I admit that.

Doctor GOODNOW.—I don't know of any case at the present time where the people do not feel more satisfaction, more confidence that the thing will be done well, if it is done by the United States government than if it is done by the State.

Mr. PELLETREAU.—And for less money.

Doctor GOODNOW.—And for less money, and it is simply because you have so scattered the State government, the State government is so unconcentrated at the present time that hardly anyone can vote intelligently with regard to state officers.

Mr. WAGNER.—Do you mean at this particular moment comparing the Federal government with the State of New York?

Mr. CULLINAN. Do you think it is a good thing in a representative form of government for the people to be deprived of the opportunity of considering the capacity of their officers during an election?

Doctor GOODNOW.—I do. I do not think that the people are competent to express a judgment on so many people at the present time. I know perfectly well, I flatter myself that I am a





pointed by the mayor, and what happens to him if the opinions which he should write should offend the mayor and be in favor of the comptroller? Does not the same thing apply to the Attorney-General?

Doctor GOODNOW.— That is an argument for not electing the comptroller and mayor at the same time.

Mr. BOCKES.— Isn't it an argument to elect your corporation counsel or have him appointed by all those parties —

Doctor GOODNOW.— Then it seems to me you would have it worse still.

Mr. BOCKES.— Isn't he supposed to advise the Legislature, and advise even the county officers in case he is asked for an opinion? In that instance, if his advice should not satisfy the Governor, and he was the Governor's appointee, why, how long would he remain Attorney-General, do you suppose?

Doctor GOODNOW.— Well, the Governor is the more important person, isn't he?

Mr. BOCKES.— But he ought to be in such position that he could advise fearlessly and honestly everybody in the State.

Doctor GOODNOW.— We do not think that is necessary in the Federal government. The Attorney-General there is appointed by the President; he is removable at will, and there is never any difficulty which has developed, and Congress has not had to provide the President with a personal counsel, as has had to be done here in the case of the Governor.

Mr. STIMSON.— How about the Solicitor of the Treasury? I think he exercises a power very unlimited in the Federal government.

Doctor GOODNOW.— You mean the Comptroller of the Treasury?

Mr. STIMSON.— Yes. He can stop the payment of money by any cabinet officer, by the President himself, can't he?

Doctor GOODNOW.— Yes.

Mr. STIMSON.— Has he ever been removed?



time immemorial, filled by the Attorney-General, and his opinions have been confined to advice to the Governor on matters of legislation, where the Governor needed an adviser through his inability to go into detail.

Doctor GOODNOW.—I think if you will go to Washington you will find that the Attorney-General does that work. There has been no necessity under the United States Federal organizations for it.

Mr. HALE.—He is the personal appointee of the Governor.

Doctor GOODNOW.—But you have had to have the officer here because the Attorney-General was not the personal appointee of the Governor.

Mr. AUSTIN.—No; I don't think so.

Mr. WAGNER.—A deputy could easily enough be assigned, but I have forgotten which Governor began the practice, but it was desired to have the place in the executive department.

Doctor GOODNOW.—That often is a reason.

Mr. BEACH.—Doctor Goodnow, to go back to the budget under discussion, what would be the practice in case the budget is actually passed and was not sufficient for some particular department, in actual practice for the current uses and expenses? Would it be the idea that each department must be actually held down for that current year to the expenditure of that amount of money, apportioned to it in the appropriation bill? Or would we be confronted with a supply bill every year, as we are now, to make up the deficiencies?

Doctor GOODNOW.—That, of course, would all depend upon the way in which the system is administered, and would depend upon the conditions of any particular year. You can foresee to a certain extent, but you cannot foresee absolutely. This building burned one year. You might have to have a supplementary estimate come in for that, and deficiency bills. You might have them, but I don't think you would have as many as you have at the present time.



be inconsistent with the idea of the control of the purse strings; but I doubt very much whether there is any fundamental principle in democratic government, as we see it in this country, which must necessarily involve extravagance. That is what seems to me that your argument leads to. That is, we must let the Legislature have this control in order that they may open the purse strings, not that they may close them. The theory of the old days was to close the purse. That is what the people wanted to do, and here this simply encourages extravagance. It does not seem to me that that is a necessary fundamental characteristic of popular government.

Mr. DEYO.—Under our present system, the Legislature has the right to open our purse strings, and the executive branch has the right to close them.

Doctor GOODNOW.—Yes.

Mr. DEYO.—Doesn't this suggestion involve a transposition of those functions?

Doctor GOODNOW.—Certainly, a transposition of the functions.

Mr. DEYO.—It gives the executive branch the right to open and the legislative the power to close?

Doctor GOODNOW.—It is a transposition of the functions as they are distributed at the present, but historically, of course, as Mr. Stimson has pointed out, that was not the original idea.

Mr. STIMSON.—Wasn't the first change from the old order made when we gradually allowed the first closing of the purse to be transferred to the Governor?

Doctor GOODNOW.—Yes.

Mr. STIMSON.—And wasn't that a complete reversion?

Doctor GOODNOW.—Yes.

Mr. STIMSON.—Of the theory of the fathers?

Doctor GOODNOW.—Yes.

Mr. STIMSON.—In that it conveyed to our Governor the real power over the purse strings.



going on, and which is increasing at an alarming rate, the expenditures of every State in the Union doing the same thing, they are doing it in the Federal government, a practice which is not practiced in any other government, we are going to say, you cannot raise those appropriations.

Mr. CULLINAN.—Do you consider they have log rolling in Washington?

Doctor GOODNOW.—Certainly. Pork barrels and all others.

Mr. STIMSON.—But in Washington they have not this system that you propose of preventing the estimate from being raised?

Doctor GOODNOW.—No. And historically here is what the House of Commons, from which every Legislature has sprung, found as a result of its experience, it had to do, and did it two hundred years ago.

Mr. CULLINAN.—Is not the budget system in England the result of the fact that the men in the House of Lords owned England at that time, and have continued to own it since so far as real estate is concerned?

Doctor GOODNOW.—I do not see how that could affect this.

Mr. CULLINAN.—The money has to be raised by taxes.

Doctor GOODNOW.—But as a general thing where the owners of the land — the land owners controlled the government, you find they do not let the taxes go on the land, and they have not let the taxes go on the land anything like what you have here. They put them on indirect taxes there until recently.

Mr. HALE.—The large estates are being broken up there?

Doctor GOODNOW.—That is just lately.

Mr. AUSTIN.—Just as a matter of information, and not as a matter of importance here, in England, is a direct tax levied the same as we have it here? Do they have a direct tax?

Doctor GOODNOW.—On the land?

Mr. AUSTIN.—Yes.





Doctor GOODNOW.— I think so.

Mr. LENNOX.— That is not true because the budgets put in now by different administrative officers are large?

Doctor GOODNOW.— But you have no check upon the part of the Governor or no check by any central body.

Mr. STIMSON.— At the present we have no budget body.

Doctor GOODNOW.— No.

Mr. STIMSON.— We have a series of estimates made up by subordinates?

Doctor GOODNOW.— Yes, sir.

Mr. LENNOX.— That has to be made up by subordinates. Mr. Prendergast told me that theirs are made up by subordinates of large experience.

Mr. STIMSON.— But Comptroller Prendergast told us at the same time that that same budget had been cut down \$6,000,000 a year by their central Board of Estimate.

Mr. LENNOX.— And further cut down by the Common Council.

Mr. STIMSON.— And further cut down by the Common Council. As I remember the figures the average cutting down by the central executive heads the lowest was \$6,000,000 and it ran from that up to nearly \$12,000,000, while the Board of Aldermen cut it down about \$700,000 or \$800,000, the figures we had for the last year.

Mr. RUEES.— This does not prevent the Legislature from reducing?

Doctor GOODNOW.— Not a bit. It only prevents them from increasing.

Mr. AUSTIN.— Here was a suggestion made by Congressman Fitzgerald before the Committee; he favored the budget idea.

Doctor GOODNOW.— He was opposed to it at one time.

Mr. AUSTIN.— He said in his judgment you should not go so far as to absolutely take away from the Legislature the right to



Mr. WAGNER.— I would not say courtesy, but merit.

Mr. STIMSON.— I will put my question in another way: Is it commonly possible for members to obtain a two-thirds vote of the House for a local or private bill which they desire regardless of party lines?

Mr. WAGNER.— I do not think they experience any great difficulty, because the Legislature usually relies upon the representative in that locality as to the merits of the particular proposition. There are not very many of those.

Mr. STIMSON.— Yes, I understand, but your experience in the Legislature, so far as it goes, would rather indicate that such a provision for a two-thirds vote does not prevent members from getting bills passed by a two-thirds vote for a local purpose when they want it?

Mr. WAGNER.— Not for a local purpose. When it gets to appropriation bills there is a difference. If it required a two-thirds vote to pass the bridge bills they would — the bridge bills that were passed, and other bills, which, while they are not really local bills, that is, State branches, and for an alleged State purpose, you could not have passed any of them, because they could not secure a two-thirds vote for very many of them. I think all the members of my party were recorded against every one of them. And those are the class of bills that Doctor Goodnow is talking about.

Doctor Goodnow.— I should think, just from a point of view of political expedience, that what you suggest would be a good first step to take; that is, provided something could be adopted. I think from the point of view of actual practice throughout the world, that the only way to check this extravagance is by adopting some such thing as this House of Commons Rule, 1713, but whether the people of the State would be ready for it is another proposition, and they might be willing to accept such a proposal as you make.

Mr. AUSTIN.— That is the idea I had in mind. Of course there is opposition, as well as there are a great many people who favor it. Whether the adoption of some proposition of that sort, still reserving an ultimate power in the Legislature to direct local

representatives of the people, as to whether they might not remove some opposition to the introduction of a budget system —

Mr. STIMSON.— Then the whole question would be whether it was a step which was at all effective?

Mr. AUSTIN.— Yes.

Mr. WAGNER.— On matters of appropriation I should think it would be, if you made the vote high enough.

Mr. STIMSON.— I mean it would not be a case where a man's desire to please another, a fellow member, in return for his pleasing you afterwards would override party considerations?

Mr. WAGNER.— Well, of course, human nature is human nature, and you cannot say that will eliminate that feature of legislative life, but I think it would make it more difficult than it is now to pass bills of that character.

Mr. STIMSON.— Have you any suggestions, Senator, as to how high it would be necessary to have such restriction in order to be effective?

Mr. WAGNER.— If you want to make it effective at all I should say you should make it three-quarters, because if there are party lines, and there are always party lines, it is rarely that any one party has three-quarters control of the Legislature. I never remember it. So that would be quite an effective check.

Mr. STIMSON.— Have you gentlemen any further questions to ask Doctor Goodnow?

(No response.)

Mr. STIMSON.— Then, Doctor, I want to tell you that I am sure that my Committee and I am also sure that both Committees are very much obliged to you for coming here this long distance and giving us this very instructive talk to-day.

Mr. TANNER.— I move that a vote of thanks on behalf of both Committees be extended to Doctor Goodnow.

Which motion was duly seconded and unanimously carried.

Mr. STIMSON.— We thank you, Dr. Goodnow; it has been a great honor to have had you with us.



# STATE OF NEW YORK

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# IN CONVENTION

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## DOCUMENT

**No. 14**

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**JOINT MEETING OF THE COMMITTEE ON GOVERNOR  
AND OTHER STATE OFFICERS, AND COMMITTEE  
ON FINANCE, WITH HON. A. LAWRENCE LOWELL,  
PRESIDENT OF HARVARD UNIVERSITY**

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SENATE CHAMBER, CAPITOL BUILDING,

ALBANY, NEW YORK, *June 10, 1915, 3:00 P. M.*

HON. HENRY L. STIMSON, and HON. FREDERICK C. TANNER,  
presided as Chairmen of their respective Committees.

Mr. STIMSON.—Will the Committees kindly come to order? Gentlemen, we have the pleasure of having with us to-day, Doctor Lowell, the President of Harvard University. During the course of the meetings of the Committee on Finance, as the members of that Committee will remember, a question came up as to the methods of budget-making which were in practice in other countries, particularly other English speaking countries and, in order to get the best possible authority on those methods, it was suggested that we invite one of the greatest living American authorities on that subject.

Doctor Lowell, who is known, of course, to all of you, from his study of the governmental methods in Great Britain particularly,

as well as the other countries of Europe, has kindly consented to come here and speak to us this afternoon about the methods of budget-making in England, incidentally, and also the methods by which the executive functions of that government are carried on, and classified and co-ordinated.

Doctor, the methods of these two Committees have been very informal, and I understand that you would be glad to be interrupted with questions?

Dr. LOWELL.— I should, at any time.

Mr. STIMSON.— And I, therefore, suggest that if you will take the matter into your own hands and proceed in your own way on those subjects, you will probably find a good many of us will be anxious for light, and will ask you questions during the course of your remarks.

Dr. LOWELL.— Thank you, sir. I should like to be interrupted and asked questions, because that is the only way to get information. I am here not to give a lecture, but to give such information as anyone may desire, and I want to say in beginning this, I want to have it clearly understood that I have no idea that any foreign methods in any government can ever be transplanted into another country and work the way they do at home; that all you can do is to get suggestions and hints. In fact, I have spent a good deal of my effort in life in trying to find out that it is impossible to transplant any institution into a new soil, and expect the same fruit and yield in its new soil. You can get suggestions, but you cannot bodily transplant anything. You can merely get ideas.

The English budget system, of course, rests upon a principle that we have not in this country, and have no approach to it. That is, it rests on the system of an executive absolutely responsible to the Legislature, who resigns whenever it loses the confidence of the Legislature; that is, whenever an adverse vote is passed by the Legislature on any important point. Of course, one must bear in mind that fact for much pressure which the Legislature exerts on the Executive, and which the Executive exerts on the Legislature is due to the fact that the Executive has no independent origin. It is not like ours, elected by the people independently





You must remember that the appropriations in England that are made lapse at the end of the year for which they are made. Unlike the French appropriations, for instance, which run over indefinitely, or our appropriations — I don't know how it is in New York, but in Massachusetts our appropriations lapse at the end of the year next following the one when it is appropriated.

Mr. STIMSON.— Two years, yes.

Mr. TANNER.— When does the fiscal year begin, Doctor Lowell?

Dr. LOWELL.— The fiscal year begins the first of April, and the appropriations lapse then. Parliament meets usually early in February, and the first thing that has to be done is to make up for any over-run that they are likely to have. That is, the first thing to do is to ask Parliament to cover any excess, which is very sure to occur, before the first of April. For however well your government is conducted, there are certain to be some unforeseen expenses in some way or other, which will necessarily require additional appropriations. The amount in England is very slight. They rarely over-run more than three or four per cent., except in case of war. Of course, in this war and in the South African War, they may over-run to any extent, but ordinarily the calculations are very close, about three or four per cent. The first thing the Chancellor of the Exchequer does is to bring requests for those excesses, whatever they may be. Those are called excess drafts.

Mr. TANNER.— Is there any statute preventing an officer from overrunning his appropriation?

Dr. LOWELL.— Yes, I will explain that when it comes to the audit.

As a matter of fact, there are very elaborate rules which I can point out to you, and which it is hardly worth while to go into. As a rule, your budget is voted by headings. There are different departments, and under each department the headings are different. The rule is that you cannot transfer from one grant to another, or exceed any grant, except in the Army and Navy where you can transfer from any one grant in the army to any other grant in the army. If you want to take things from the clothing



out of the public treasury, there would be introduced a motion to be paid out of moneys to be hereafter voted by Parliament, and then the House of Commons having voted in favor of that, they have practically expressed their opinion, and the government has to bring in a recommendation, and find the money, because the House had already expressed its opinion. That was dodged by adding a few words to the motion, saying it could be paid out of the public revenues, or sums to be hereafter provided by Parliament, et cetera.

You have to continually stop leaks which will occur, of course, in any legal procedure. The object was this: It was to prevent an expression of opinion in favor of an expenditure before the government thought it wise to make it. In other words, the whole art, of course, as we all know, is having the right of initiative.

If you give every individual member of the House a right to initiate things, it may be very hard for the House and the Minister to refuse them, although in their best judgment, they know it is not wise, and, for that purpose, the right of the initiative in expenditures is taken away from the individual member, and placed in the hands of the government. Why? I think for a very good reason, and that is that the House of Commons does not represent, and no legislative body ought to represent, a lot of individual interests. It ought to represent the public at large. And the only body that represents the public at large is the Ministry, which stands for the whole country. In other words, they do not want the individual member to make motions to pay money out of the treasury that belongs to the public at large, for the benefit of the interest of his personal constituent; he ought to be there to represent the public at large. And, although the things he wants to spend money on, may be a thing that is perfectly proper for him as representing his constituents, it is not proper for him to put his hand into the treasury to take it out. And the people who represent the whole public are the Ministers, who represent the whole majority of the House.

I think that has proven in England, undoubtedly, to be a very wise prevention. It has made it possible to know just where you are coming out; it has made it possible for the Treasurer to plan his expenditures, and taxes, so they will meet, and so that they will cover any deficit.



of the public. It is not unfrequently that a man moves to reduce an appropriation by 100 pounds, to draw attention to the fact that they need 100 pounds more. But you will notice his vote is of no consequence. That has happened on sundry occasions.

I remember there were a number of cases of appropriation for Ireland, one for the education of the poor in Ireland, and one of the Irish members moved to reduce the appropriation for Ireland by 100 pounds, as basis for criticism of the Irish educational policy in not bringing in the Celtic language in the public schools more fully than was done and, as a matter of fact, that, in a very thin House, was carried. Well, the government said this is an accident, it is a small House, and we do not feel obliged to resign on that, and Balfour laughed and said "Ireland gets 100 pounds less for education," and that is all that has been done. And another one said, "Well, the defeat of the government on that is worth 100 pounds to Ireland." That I bring out because it illustrates the point I want to make, which is this method of reducing expenditure, or, indeed, even without making a motion to reduce expenditure, the debate on those items gives an enormously full opportunity for criticism of whatever the government is doing.

Disraeli said once that Parliament is the great inquest of the nation. It is not merely a legislative body. Parliament to-day legislates very little. If you take the thickness of the statute book, as a rule it is comparatively small, and the legislation that it does pass is almost all drawn up by the Cabinet, and with practically no amendment that the Cabinet does not agree to. The private members can bring in bills, but practically they cannot pass them if there is any considerable amount of opposition on anybody's part to them. Parliament is not a great legislative machine; it is really the Cabinet that legislates, with the advice and consent of Parliament. But Parliament is the greatest inquest in the world. That is, it is the body which keeps the closest observation on the working of the Executive government, upon the administration of affairs, of any body in the world.

Mr. STIMSON.—It is a perpetual committee of investigation?

Dr. LOWELL.—It is a perpetual committee of investigation; and I take it that is what the representatives of the public ought to do far more than what they do it in this country. It is the



criticism of the government administration; and I fancy that is not a bad idea; that through this system of bringing in all those estimates in succession, you get a chance to put every piece of the government through a fire of criticism and inquiry which searches out anything that you may choose to bring out.

For instance, the time when, in 1895, Lord Roseberry and his government went out. He went out because there was a motion to reduce the salary of the Secretary of State for War by 100 pounds. What for? To draw attention to the lack of cordite in the government arsenals. You can discuss anything you want to bring up.

MR. TANNER.— Before you go further, may I ask this question?

DR. LOWELL.— Yes.

MR. TANNER.— Who is in the ministry that has the final say as to the maximum of those appropriations? Is it the Chancellor of the Exchequer, or is it agreed upon at a whole Cabinet meeting?

DR. LOWELL.— The estimate is brought in by the particular minister, let us say, the Minister of War; he takes it to the Chancellor of the Exchequer. If they agree, that is done. Nobody practically reviews it; it goes through. If they disagree and cannot adjust their differences, the whole Cabinet must decide between them. In other words, the complete executive must decide in the long run. That obviously must be so. If we had it in our system, it would be our government. And, of course, there is always some struggle.

The way in which the procedure goes through in the House of Commons, it is very much like ours, though it is much more elaborately carried out. The first service is submitting the estimates. The estimates are submitted to a Committee of the Whole on supply, and are gone through there. Then the committee reports to the House.

Then when that committee — when that report has been accepted by the House, a bill is brought in to pay that money out of the treasury, but the first procedure is getting through the estimates. You begin with the detail, and very properly so, because your object is the criticism of the action of the government.





Dr. LOWELL.—As a matter of fact, the two are running parallel. Part have been passed and part have not.

Mr. STIMSON.—I see; but this final passage in August that you speak of, is the passage of the budget?

Dr. LOWELL.—Nowadays, the whole of the estimates are put in with the expenditures in one big bill, and passed through finally as a bill. They sum up everything that has been done before, and that is called the Finance Bill.

Mr. STIMSON.—In March the estimates come in?

Dr. LOWELL.—In March the estimates come in.

Mr. STIMSON.—Then there is a period of investigation?

Dr. LOWELL.—Then there is a period of investigation, and while that is progressing somewhere about — usually early in April, the budget is brought in, and the discussion of the taxation and of the expenses go on parallel, side by side, until the end of the season, and they are summed up together in the Finance Bill.

Mr. NICOLL.—What happens to the budget when the government falls?

Dr. LOWELL.—The new government comes in and brings in a slightly changed estimate, and you have to do the same process over again. That happened in this case when Lord Roseberry went out. A new government comes in, and then they will say “We have not got time to make a new budget, and we will change it a little and pass it. If the new government fails, there is a new election, and before the new election there is a special vote to authorize such expenditures till Parliament meets again. That is a temporary measure.

Now, I want to speak about how these things are ordered. You have got to know your appropriations, your expenditures are all voted. I have explained how when the expenditures exceed the estimates, or are going to exceed the estimates, the government, towards the end of the year, makes excess grants to cover them, so that they shall not be spending money without approval.

There are three forms of account that come in. The govern-

ment makes two, or rather the auditor makes one and the committee makes another. The government, very quickly after the ending of the year, brings in a short account of the total of expenditures and receipts, so you can see how the finances balance for the year.

That does not attempt to give the amount expended under each item, but only under the general large grant. That can be made up quite rapidly, and is handed in very shortly after, a couple of months after the close of the year, a general account simply giving a sort of balance.

Mr. STIMSON.— That is after the close of the fiscal year?

Dr. LOWELL.— After the close of the fiscal year, which closes the first of April. Within a couple of months the balance sheet is brought in by the government. Then the matter is sent to the auditor — it takes the auditor longer. The auditor is not a member of the government. His salary is not appropriated by Parliament. His salary is paid like that of the judges, out of the consolidated fund, without action of Parliament, so that he is completely independent. He is appointed by the House of Commons, and not by the government, and, consequently, he is made just as independent as anybody can be made. He goes through all the expenditures of the year.

Mr. STIMSON.— He exercises no executive or legislative functions whatever?

Dr. LOWELL.— He has nothing whatever to do with the control of expenditures, but makes a report upon it.

Mr. STIMSON.— He is wholly unlike the office of the Comptroller in the State of New York, who is both an auditor and an executive?

Dr. LOWELL.— Well, the Comptroller is a treasurer.

Mr. STIMSON.— In the case of the English auditor, he is purely an auditor?

Dr. LOWELL.— He is purely an auditor. The Comptroller here is a treasurer to a certain extent; he is Secretary of the Treasury.

Mr. STIMSON.—And also a tax collector.

Dr. LOWELL.—Yes, sir; and the auditor is nothing but a man who goes over the accounts. He simply takes all of those accounts and goes through them. He not only reports what money has been spent and gets vouchers for the payment to show that there is no fraud, but he also goes through each item to see that it is within the amount that was appropriated, and that that money was spent as directed by the vote of Parliament. In other words, he not merely examines to see that the money is properly spent and that nobody puts it in their pockets, but he also sees that it has been spent for the purposes for which it was appropriated; and, of course, it very often happens that the money was not spent just exactly as it was appropriated. Sometimes the government, as I say, has power, as it has for instance in the case of the army, to expend for one purpose money voted for another, but in that case the Auditor needs the facts, and gets the explanation of the War Department why it was so spent. In other words, he goes through the accounts, sees that they are properly vouched, and annotates them, showing if there was anything which was in any way irregular, his explanation of it, and a statement on his part that it was justified or not justified, as he thinks.

Then, when he comes in, or when his report comes in, which, as you notice, takes about a year to prepare, that is, nearly a year, that is referred to the Committee on Accounts of the House of Commons, which again is an independent committee which has no connection with the government.

Mr. TANNER.—What is it that determines his tenure of office? He does not go out with the Cabinet?

Dr. LOWELL.—No; he is elected by the House.

Mr. TANNER.—For any definite time?

Dr. LOWELL.—No. As I remember, there is no term at all. I do not remember now whether he is elected during good behavior, or elected from year to year, but those things are regulated practically by custom.

Mr. TANNER.—He is independent of the government?

Dr. LOWELL.— He is independent of the government, and he is like the Speaker of the House, and is totally independent.

Mr. STIMSON.— You mean the English Speaker?

Dr. LOWELL.— I mean the English Speaker.

Mr. RHEES.— May I ask whether the auditor has no function before the end of the year? He does not have to certify accounts for payment?

Dr. LOWELL.— No. If I am right, he has no function whatever to the House, except the making of his report upon the expenses.

Mr. RHEES.— After the year is over?

Dr. LOWELL.— After the year is over?

Mr. RHEES.— Yes.

Dr. LOWELL.— Of course an officer may go to him and say “ If I made this expenditure, would you be able to certify it? ” There is a certain amount of that done, but he has no control over it.

Mr. RHEES.— His signature does not have to appear?

Dr. LOWELL.— No, except that he certifies during the year, he has to make a certificate when a vote is passed by the House, he certifies to the Bank of England that the vote has been passed which authorizes the payment. See what I mean?

Mr. RHEES.— Yes.

Dr. LOWELL.— He certifies to the Bank of England that such votes have been passed, but he has no control whatever over the expenditure of money. He simply certifies everything — examines it and certifies.

Mr. STIMSON.— He is a pure critic?

Dr. LOWELL.— Yes. Then the House of Commons go in detail over his report. If there is anything irregular they have a right to call in government officials and ask why the irregularities occur, and they report to the House, and if they report that there is anything irregular which requires to be ratified, they ask the House to do it, and they do it.

Mr. STIMSON.— I ask you this question: Does he perform any function at all to help the House in the examination of the government's estimates when they come in?

Dr. LOWELL.— No, sir; none whatever. Nothing whatever to do with the estimate.

Mr. STIMSON.— His duties are purely related to the accounts?

Dr. LOWELL.— Purely related to the accounts.

Mr. STIMSON.— For the preceding year.

Dr. LOWELL.— He has nothing to do with anything until the House has voted it. When the House has voted it he will certify to the bank that it has been voted, and then he sees that the government spends it as voted.

Mr. STIMSON.— The reason for my question was that it has been discussed before this Committee, and has been suggested by a number of the gentlemen who have been here, that expert assistance is almost essential in order to enable the legislative body to perform its work of criticism on the budget. I was wondering whether this officer that you spoke of in any way took any part in that?

Dr. LOWELL.— None whatever. And I suppose it would rather change his position if he did.

Mr. STIMSON.— Yes.

Dr. LOWELL.— Because it is pretty hard to exercise both.

Mr. STIMSON.— Can you inform us as to whether there is any officer who has to perform that duty of helping the House in its examination of the items and of the estimates? What is their machinery to make that examination effective?

Dr. LOWELL.— There is no machinery for that, for the simple reason that that machinery is the Cabinet. You will remember there is one of the things which is peculiar, and that is the Cabinet member is a member of the House.

Mr. STIMSON.— Yes.



Dr. LOWELL.—In the first place, and then by the treasury afterwards. In other words, he says to the men, “Now, General So-and-So, you want to appropriate so much money. I have no doubt you are quite right, and I have no doubt the army would be better off for that, but I cannot induce the public to spend that much.”

Mr. STIMSON.—They cannot stand for it this year?

Dr. LOWELL.—I cannot stand for it this year.

Mr. STIMSON.—The reason I asked you this question is that it has been the subject of very careful discussion before the Committee. The estimates which come from subordinate bureaus are almost invariably based on an exaggerated notion of that bureau chief of the importance of his function.

Dr. LOWELL.—Always.

Mr. STIMSON.—That is true of the English, as everywhere else?

Dr. LOWELL.—Yes, sir.

Mr. STIMSON.—Then somebody, in a well regulated government, has to introduce a corrective on the inflated idea of that gentleman?

Dr. LOWELL.—Yes, sir.

Mr. STIMSON.—In England who does it? His chief?

Dr. LOWELL.—It is his chief. Of course that goes right through. You have two bureaus—even the man inside of the bureau wants more than he can get. The head says, “There is no use of my going to the chief of the department and asking him for that much money, we cannot get it.” Then when those estimates for those bureaus all come up to the chief of that department, he pares down. He says, “The public will not stand for it.” Then when the managers of the different departments bring to the Chancellor of the Exchequer, he in turn says, “No doubt it would improve the efficiency of the government if I could do it, but I cannot do it.”

Mr. STIMSON.—And so the paring down goes on.

Dr. LOWELL.— Yes, sir; until it gets to the Ministers who represent not the experts, but the people. And I maintain that you never will get good government anywhere, and never can, unless you represent both the expert element and the lay element, and represent them both in an effective way. You have got to have the public represented, and you have got to have the expert represented.

Mr. STIMSON.— Successful legislation is a compromise between those two kinds of bodies, those two points of view?

Dr. LOWELL.— Yes, sir. I don't know whether I have made myself clear, or whether anybody would like to ask any questions.

Mr. Low.— Do any agencies exist within the department for the preparation of those budgets originally, before they come to the department head?

Dr. LOWELL.— Oh, yes. Each head of a bureau prepares the estimates for his bureau for the coming year, then those are combined, all the bureaus of each department are combined together into an estimate for the department itself.

Mr. Low.— Is there any committee of Parliament, or any outside agent of any kind that is looking into the details of those estimates during the year, so as to be able to criticize them more intelligently?

Dr. LOWELL.— No. The criticism is done after they are brought into Parliament. The whole initiative of this rests with the departments, and with the Executive, and it is only when they are brought into Parliament that criticism arises. Then there is plenty. A man will often get up, as in this particular case pointed out, where there was criticism that there was a lack of sufficient amount of high explosives in the War Department.

Mr. Low.— I suppose then each head—the estimates are prepared in the first instance by the permanent officers?

Dr. LOWELL.— Permanent officers.

Mr. Low.— And the lay judgment is brought there through the political head, for the time being?



Dr. LOWELL.—Yes; there is no particular fear that an expert head of his bureau will ask for less than he needs.

Mr. STIMSON.—Have you any figures which would give us an idea of the amount of reductions that are normally made in those estimates by the heads?

Dr. LOWELL.—You mean inside the bureau?

Mr. STIMSON.—Inside the bureau.

Dr. LOWELL.—No; I haven't that; and that, of course, is confidential information.

Mr. STIMSON.—Which does not come out?

Dr. LOWELL.—Which does not come out. Not that you cannot get it, but it is not published.

Mr. STIMSON.—The first information the public gets in reference to it is when it comes out in published form as a final document?

Mr. PARSONS.—Does the auditor ever criticize any expenditure that is made, provided it is made within the appropriation?

Dr. LOWELL.—No.

Mr. PARSONS.—He cannot judge extravagance?

Dr. LOWELL.—That is not his business. He is purely the servant of the House of Commons, to see that what the House of Commons voted was carried out. In other words, he has no political functions. It is not his business to have any opinion whether an expenditure is wise, but merely whether it is legal.

Mr. PARSONS.—Suppose the opposition wishes to charge extravagance; when does it make the charge? During the discussion of the estimates, or when?

Dr. LOWELL.—There are a great many occasions for that. One is the time when the estimates are under discussion, and the estimates I say range all over everything. Then there are a great many occasions where the House of Commons can discuss anything they want. Curiously enough, when you move to adjourn for a holiday, when you debate the Queen's speech — there



Dr. LOWELL.—Perfectly. I remember the first time I ever went into the House of Commons, when Mr. Gladstone asked how it happened that when some English sailors had been wrecked on the Cannibal Islands, the government did not succeed in getting a warship there for five days, and when they got there the sailors had been eaten.

Mr. DEYO.—Is there any such thing as parliamentary investigation of expenditures of estimates by committees?

Dr. LOWELL.—You mean special occasions?

Mr. DEYO.—Yes.

Dr. LOWELL.—Oh, yes; there have been a considerable number of them. There have been two or three lately, within the last ten or fifteen years. Every little while Parliament appoints a committee to investigate. Sometimes there is a parliamentary committee; sometimes they request the government to appoint a royal commission to investigate, for the two really have very much the same effect, because the ministry is always in accord with the majority of the House of Commons. It makes little difference in the practice in England. But those commissions are appointed constantly, and their reports are very interesting reading. I mean they record all the evidence that they take, and they are constantly investigating the government. There was a very interesting report made on the whole question of civil service in England, the whole administration, appointment of men, work of the department, and it was very elaborate. Then there have been recent reports on the whole financial situation, expenditures, and so forth. There are two or three on those subjects every year, but those are special investigations. I am talking now of the current inquest that goes on week in and week out, all the way through every session. The government is on the grill all the time, being asked questions about something, and somebody is raising a debate, and that is the thing which keeps civil service up to the mark. With the ordinary bureaucrat, all he knows, everything he does, is liable to be the subject of investigation in Parliament. But if his subordinate makes a mistake, knowing that any act he does is liable to be brought up in debate in Parliament at any time —



tion. In cities, in states, the practice is growing more and more. You have appointed within a year or two, a most admirable man as Superintendent of Education of New York, Dr. Finley. He has devoted his whole life to education. Thirty years ago you might have put in somebody who had been prominent in some political office. You certainly would sixty or seventy years ago. We have improved enormously, in our use of experts in certain directions. We have always known how to use lawyers. We have never thought of putting a casual layman on the bench, or as Attorney-General. We are learning to use educators; we are learning to use engineers; we ought to use trained administrators in every branch of our public life, I believe, in a way in which you do not use them.

That is the reason why the corporations go ahead of us: They use experts, while the public does not. I believe democracy needs the best tools the world has ever fashioned, and the best tools the world has ever fashioned are the men with the trained human brain.

Mr. RHEES.— May I ask you a question with reference to the function of the auditor? You say he has to certify the grants voted by Parliament?

Dr. LOWELL.— Yes, sir.

Mr. RHEES.— If I remember correctly, you said that towards the end of the fiscal year the government had to bring in supplemental supply bills.

Dr. LOWELL.— Yes.

Mr. RHEES.— Is that supplemental supply bill voted before the expenditures under it are made?

Dr. LOWELL.— As a rule. There are certain emergency provisions. Of course you have always latitude, and there are certain small funds which the government can use in certain cases, in case of emergency. I have forgotten the amount. They are small amounts. You always have to leave a little leeway for margin of one kind or another, and the government can call on those. There is always that to give a little easement, but that is always made up at the end of the year.



Mr. STIMSON.— Practically to that effect, except that it was not an absolute provision against the Legislature making increases. It was a provision to the extent that no increase could be made except by a two-thirds vote.

Dr. LOWELL.— I will say that the English provision has been adopted in a way in Australia, in New Zealand and in Canada. Those places are quite as democratic as we are, and they find it to work well. It seems to work very well there. In France, on the other hand, it is not a success. In Italy it is not a success, and they have had trouble with their budgets. Appropriations do not lapse in a year, and the result is you never know for five or six years what the balance of the year was, because the expenditures went on, and then they were continually moving to increase the budget for local purposes, and of course log-rolling and extravagance went on.

Mr. STIMSON.— The absence of that rule forbidding increases in the budget, as I understand from reading your book, is one of the reasons why the French government has been more extravagant?

Dr. LOWELL.— Yes, and it has found it very hard to find out where the expenses have gone. In Italy and in Switzerland it is the same.

Mr. STIMSON.— I was going to ask you about Switzerland.

Dr. LOWELL.— Switzerland, I cannot tell you very well about that. Switzerland is a peculiarly arranged place. You must remember any examples taken from Switzerland are to be taken with some grain of salt as compared to the application to other places, because Switzerland is very, very small. You will remember that the whole of Switzerland put together has only about twice the population of Massachusetts, and divide that into twenty-five cantons, and you will get some rather minute places. Some of the cantons are not as big as a single town here. You must remember also it is a community of very even distribution of property, with very indigent property.

Mr. CULLINAN.— How is it about Germany?





Mr. WESTWOOD.— Is provision ever made, and if so how, for the reimbursement of the Member of Parliament upon his successfully defending his right to his seat?

Dr. LOWELL.— I do not recall any case of reimbursing the man. Perhaps I ought not say it never happened, because it is hard to prove the universal negative, but those contests for seats are made before judicial bodies, and the fines are heavy to the men who lose.

Mr. WESTWOOD.— How would you get into the budget an item for that?

Dr. LOWELL.— The government would not put it in, and if the government would not put it in, you cannot put it in. I don't think they would pay those expenses at all. I think they would rather not.

Mr. STIMSON.— They do not even pay salaries to their members?

Dr. LOWELL.— They do not.

Mr. E. N. SMITH.— Is it necessary for this system that the Ministers be selected from the Parliament?

Dr. LOWELL.— We cannot adopt it just as it stands, but there is a great deal in it that we can adopt to our institutions.

Mr. PARSONS.— How has this system worked in the self-governing colonies?

Dr. LOWELL.— The self-governing colonies, I do not think any of them work quite as well as the English system does, but the budget part I think works pretty well.

Mr. PARSONS.— In the self-governing colonies the central government does make large appropriations for local purposes?

Dr. LOWELL.— Undoubtedly it does, and if it were not for this, it would be, of course, much worse.

Mr. WADSWORTH.— What is the Massachusetts system?

Dr. LOWELL.— It is very much like yours. There is no —

Mr. WADSWORTH.— No improvement?



That man is usually designated, sometimes not. When a leader dies, for instance, if Mr. Asquith should die to-day, he might send for Lord Gray, or Lloyd George, he might have some difficulty, but if the men say no, we are not the men you want to serve you, he will go back, but usually the leader is picked out, and then he goes and picks out his colleagues. He has to arrange them as a checkerboard. Some of them have got to be, obviously, in certain places; some are men where you can exercise some latitude, some what you call the second grade leaders, but in the main he has to take all the leading men of his party. He cannot leave any of them out.

Mr. STIMSON.— There is one question that does not pertain to the budget, but it pertains to a matter which is pending before the Convention, and has been discussed, and was mentioned I think in one of the platforms of one of the great parties last year; that was an improved method for the treatment of private and local bills. Could you tell us a little about the methods which are employed in the House of Commons in dealing with that subject?

Dr. LOWELL.— It is a long chapter. Local and private bills are treated the same way. That is, a bill which affects a corporation or a town are treated exactly alike. The process is to try to get it out of politics as much as may be. I have always felt that we might get some ideas out of that, but, again, you cannot adopt it in the form there. The procedure begins by filing a notice of what the bill is going to be. In other words, filing the bill in the local government office, local government board office, then it has to be advertised.

Mr. STIMSON.— Who files that?

Dr. LOWELL.— It is filed by the person who wants it.

Mr. STIMSON.— Some one outside of Parliament?

Dr. LOWELL.— Anybody outside of Parliament who wants to. The petitioner, as we say. If it is, for instance, a railroad who wants to be allowed to build a spur track somewhere, or let us say that a town wants to be allowed to supply gas to its inhabitants for cooking ranges, or something or other — they do supply all kinds of things now. A town wants to build a bridge across a



law. The hearing is exactly as it would be in a court of law. You produce your witnesses. Of course, in many cases, you are producing expert witnesses, such as engineers to prove that this bridge over the river will or will not greatly hurt the system, etc. They have lawyers who appear, and those are known as the parliamentary bar, men who make it their regular business; and that hearing lasts as long as is necessary, and then the committee reports, and their report is practically always accepted by the house. Then it goes into the other house and the same procedure goes through there; and I have known very few cases where the report of the committee was upset in the House of Commons. I remember one case very well where the committee reported that a great private company ought to have the right to sell electric power. That would have affected the town somewhat, the people in which thought it would interfere with their supply of power to their own inhabitants because this big company could probably supply it cheaper, and the boroughs opposed it, and got it voted down in the House of Commons. There was a considerable howl through the country that the towns had no more right to be selfish than the corporations had.

Mr. STIMSON.—But, in general, the difference between that method of treating local bills and ours is what?

Dr. LOWELL.—Those are referred to a committee which sits like a court, whose members are wholly impartial, and hears evidence and tries the case judicially, and in which the House as a whole practically takes no part.

Mr. STIMSON.—And on the other hand, we try to prevent it absolutely.

Dr. LOWELL.—We try to prevent it absolutely.

Mr. STIMSON.—And then make it subject to evasion by passing private and local legislation in the form of general bills?

Dr. LOWELL.—There is no European country which does as we do; that is which practically treats a private or local matter as a public matter in its parliamentary body, permitting it to be debated and pushed about like a football in its public assemblies. In England they do it this way, but on the Continent those things are all done by the administration.

Mr. Low.— I take it the English method is a very costly one?

Dr. LOWELL.— The English system is a very costly one, and I think perfectly unnecessarily costly, but then that cost you will remember in the main is just the same thing for which we spend.

In other words, if a big, private concern wants a building constructed it will very likely spend a great deal of money to do it in one way or the other.

A contest took place between Manchester and Liverpool on the petition of Manchester to build the Manchester ship canal, the legal expenses of which were \$1,000,000.

Mr. Low.— I remember seeing a ferryboat crossing the Thames years ago, and of being told that the reason they did not have a bridge was that it would cost four thousand pounds to get permission from Parliament, and it was cheaper to maintain the ferry.

Dr. LOWELL.— That, of course, is unnecessary.

Mr. STIMSON. You mean that the system of treating those matters judicially is right, but the cost attached to it is not, and could be transplanted more economically if the people wished to do it?

Dr. LOWELL.— That is it exactly.

Mr. CULLINAN.— As I understand it, the budget is prepared by the cabinet, substantially?

Dr. LOWELL.— Substantially.

Mr. CULLINAN.— The House of Commons merely has the veto power?

Dr. LOWELL. Yes. It can reduce or strike out items, but it cannot increase them.

Mr. CULLINAN.— They are not increased?

Dr. LOWELL.— No, sir.

Mr. CULLINAN.— The cabinet is appointed by the King?

Dr. LOWELL.— Yes.

Mr. CULLINAN.— So the King originates the budget?

Dr. LOWELL.— Well, that, perhaps, is not really a fair way to put it.

Mr. CULLINAN.— I want to be fair.

Dr. LOWELL.— When somebody said to me that the King was the fountain of justice, I said yes.

Mr. CULLINAN.— In our country the budget originates, for instance, in Congress, in the lower House.

Dr. LOWELL.— Yes.

Mr. CULLINAN.— And in our State in the lower House.

Dr. LOWELL. Yes.

Mr. CULLINAN.— In Massachusetts the same way?

Dr. LOWELL.— Yes.

Mr. CULLINAN.— Do you want to make any comment on that situation?

Dr. LOWELL.— My feeling is simply this, that the budget is a public matter. It is not a collection of private matters. It is a public matter, therefore, it would be wiser to have it originate by public officials and not by a lot of people who represent private and local interests. That is really the argument I wish to make upon it, that what the public wants is somebody who represents the public. As a friend of mine said once, and I think there is some truth in it, and I think it explains a great deal of the movements in our government, that the characteristic defect of democracy is that there is nobody whose business it is to represent the public, and to some extent that is true. That is, people represent fractions of the public. The reason for having our budget originate in our State with the Governor is that he is the one official who represents the whole public, whereas, the members of the House are, in each instance, representing small sections of the public, therefore, as a body, their combined good sense is very well, but if you give each of them a chance to originate the budget, you are putting that in the hands of a lot of people who represent individual interests and not the public interests. I believe myself that the reason that the power of the Governor and the President,





cause they have made a coalition, it has lasted since 1906. You do not mean practically the same body running through?

Mr. E. N. SMITH.—No.

Dr. LOWELL.—This ministry came in in 1906; it was in nine years. The one before 1906 came in in 1895 and consequently was in eleven years. Latterly, they have been averaging eight or ten years.

Mr. E. N. SMITH.—I was asking that question as related to the fact that we elect our Governor for two years. How would that plan operate in connection with the financial system, like that in England?

Dr. LOWELL.—I have no question, sir, that the shorter term that we have for all of our officers makes government more difficult. We have a curious habit in Massachusetts; we elect there a governor every year, but we always re-elect them two terms, making it a three-year term, unless we have some special reason for not re-electing him. It is understood he is not there for three years, but he has the right of renomination, and is habitually re-elected. We are shifting a little now.

Mr. SANDERS.—If the English budget were adopted in New York State how would it be changed, in case the executive affairs are in the control of one party and the Legislative affairs are in control of the other party.

Dr. LOWELL.—Of course, that raises a different proposition from that which exists in England, where they must be of the same party. Although it probably would not work as well as if the Governor and Legislature were of the same party, still I do not think it would produce a deadlock; but, if it did, you would have to take some method by which you can get over a deadlock. There are a great many different ways in which you can get over a deadlock.

Mr. STIMSON.—Are you familiar with the way which has been in effect where some of our insular governments are established?

Dr. LOWELL.—Yes. But we would not want to do that, the budget would be continued until the next election. My impres-



Dr. LOWELL.—It would make a good deal of difference, of course, in the operation of things, and it is for that reason that you cannot adopt their scheme as it stands here. You have got to adapt it to that very condition, and our executive is not responsible to the Legislature, but to the people. That would make you modify the scheme, but still I think there are many points in it that could be adapted to that condition.

Mr. HALE.—What control has the House of Lords over the budget?

Dr. LOWELL.—The House of Commons has always contended that the House of Lords had no right to change the budget in any way, no right to increase or diminish it, but must accept it or reject it as a whole. The House of Lords never admitted that, but they never ventured to exercise any such disputed power. It has been usually admitted that they had a right to reject it, but a little while ago they did reject it, and I fancy they will never again.

Mr. HALE.—That was in 1911?

Dr. LOWELL.—They rejected it, and the election was so decidedly a condemnation of the way they did it, that I do not think that it is likely to be attempted again. Practically they have no financial power.

Mr. HALE.—I happened to be in London that time.

Dr. LOWELL.—Yes.

Mr. HALE.—I understood the King agreed, if necessary, to appoint seventy-six additional peers.

Dr. LOWELL.—He did. He was ready to swamp the House of Lords. They have no powers in financial matters practically.

Mr. HALE.—What effect would that have upon the proposition to have a Legislature of a single house?

Dr. LOWELL.—I suppose you could apply this either to the two Houses or to one. I think it would be possible to apply it to either. Of course it is a great deal easier to work in a government the simpler it is; it is simpler to work a government with one House



much alike in most of the departments. The names and forms are so wholly different that if you will come to read them through you would suppose them to be some heterogeneous group. But you know the whole English system of government is a bundle of shams, and nobody in England ever does what he would seem supposed to do by the title. They always do something different. The Crown does not govern. There is a Chancellor of the Exchequer, and he is not a Chancellor of the Exchequer, no such thing as the Exchequer exists. There is a Treasury, and it has nothing to do with the thing as Treasury. The names are simply outgrown. We are working with old forms and old names, with wholly new substance put into them, consequently one must not be misled by that. Nominally those offices are boards, a great many of them. But, as I was just now saying, the Chairman of the Board is necessary and sufficient for a quorum and nobody does ever attend. I remember when one of the last boards was formed, I think it was the Local Government Board, Lord Hartington who was a singularly honest man, was asked a question in the House of Lords why they should have a board, because that was much less convenient than a single head to the ministry, and Lord Hartington said, "I cannot really remember why a decision was made in favor of the form of the board, but it is perfectly well understood that really there will be no board." He is the Chairman of the Board of Works, and I think he is really the minister. You have noticed that now you hear of the First Lord of the Admiralty, but he is the whole admiralty. The fact is there was a man called Lord High Admiral, and they put that into a commission as it was called, and made a board to exercise the functions of the Lord High Admiral, and now the president of that board is the whole thing, and they might just as well call him the Lord High Admiral, but they do not. For some reason they prefer not to, and there are a lot of curious forms in that way, but practically each department has a minister at its head, and that minister is a Member of Parliament.

Mr. STIMSON.—The First Lord High Admiral is the navy?

Dr. LOWELL.—That is the navy. Then there is the local government board, the Secretaries of State for the Interior.



and such. Then there is the Education Department. Then there is a Special Secretary for Ireland, and a Special Secretary for Scotland. Then there is the Board of Works, which has charge of the public works belonging to the government—I mean the government buildings all over the country. Then, of course, there is the post-office. The post-office, curiously enough, is under the Post-office Department, in the main.

Mr. RHEES.—Is each minister a member of the Cabinet?

Dr. LOWELL.—No. The members of the Cabinet are all ministers, and the most important of those ministers are always in the Cabinet. For instance, the Chancellor of the Exchequer, the Premier, who may not have any office at all, and the Secretaries for War or the First Lord of the Admiralty, etc., those are always in the Cabinet. A president of the Board of Works may or may not be. Outside of the Cabinet comes the Ministry, and the Cabinet is the smaller body.

Mr. STIMSON.—What determines what positions shall be in the Cabinet?

Dr. LOWELL.—Two factors; one is the question of the importance of the department. The Foreign Secretary must be there. On the other hand, a big man in a small place would be put in.

Mr. STIMSON.—You indicate that at one time a man holding one office may be in the Cabinet, but at another time a man holding that same office may not be in there?

Dr. LOWELL.—Yes, sir.

Mr. STIMSON.—Who determines that?

Dr. LOWELL.—The Prime Minister. For instance, Winston Churchill has just got out of the Admiralty because it was thought it was not being well managed, and yet he was not wanted to have a back seat, so he is given another seat. Nominally, his department has charge of the little revenues belonging to the Crown in the Duchy of Lancashire. It is really a small office, but it is in charge of a big man. They put him in the Cabinet because they want him in the Cabinet, but another man to hold





up he said, "Now, raise the price of the bread or lower it; it does not make any difference what we say, but we have all got to say the same thing."

They may have very bitter fights in the cabinet, but unless it is so bitter that they have to resign and get out, they must get together, because if they do not they must get out.

Mr. PELLETREAU.—Does Parliament have any power of confirmation of the appointment of the minister?

Dr. LOWELL.—They have absolute power, not of the individuals.

Mr. PELLETREAU.—But as a body?

Dr. LOWELL. As a body. The first thing that is done is this: suppose a liberal cabinet resigns and a conservative comes in — or take what actually happened the last time there was a change of Parliament. Balfour resigned. Campbell-Bannerman was appointed. What did he do? He knew perfectly well that that House was hostile to him. He dissolved it, and, as he had a right to, went to the country and got a new election. The point there is that the opposition puts down practically a motion for want of confidence in the ministers. If that is carried the ministers resign at once, and practically it is an understood thing in England that at any moment the opposition choose to ask it, that may happen.

Mr. WADSWORTH.—From your knowledge of our general State governments, do you think it practical to have an official who would practically correspond to the English Chancellor of the Exchequer, who would make his estimates to the Legislature, etc.?

Dr. LOWELL.—I think you have got to do that. But if you do that I think you would have an officer who would speak in the name of the Governor.

Mr. WADSWORTH.—A man appointed by the Governor?

Dr. LOWELL.—Yes, and responsible to the Governor. Just as the Chancellor of the Exchequer going into the House of Commons would not be able to speak as he does if he had not the Premier and whole cabinet behind him.



Mr. STIMSON.— And you do not want to put him in a position where he would be criticizing himself.

Dr. LOWELL.— No.

Mr. PARMENTER.— Does the minister represent the locality?

Dr. LOWELL.— He represents Bristol, but he practically has nothing to do with Bristol, as a matter of fact.

Mr. FRANCHOT.— Who looks after the local interests of Bristol?

Dr. LOWELL.— That is the point. The theory of the House of Commons is that the local interests have no business there. That is the theory. There are two theories of representation; one is, that every man that represents a constituency, and that the aggregate of separate interests is the interest of the community. The other theory is that every member of the Legislature represents the people as a whole.

Mr. STIMSON.— They have other methods by which Bristol is taken care of in a local assembly?

Dr. LOWELL.— Certainly, but I feel that a man ought to represent the whole community.

Mr. FRANCHOT.— The system where he is elected from a particular district, the tendency is the other way?

Dr. LOWELL.— To some extent. Do you know any man who would stand up in Congress and say the interests of the United States are so and so and the interests of the State are so and so, but we are going to vote against the United States.

The CHAIRMAN.— They do not say that, but they do it.

Dr. LOWELL.— But nobody will admit it; which seems to show that a man feels he should represent the interests as a whole.

Mr. WAGNER.— Would not the giving of increased power to the municipal corporations relieve the Legislature from a good deal of local matter?

Dr. LOWELL.— Very much.



Dr. LOWELL.—Yes, sir; usually the activities of government grow slowly, and they will be put into some other department until they get big, and then they will split them up.

Mr. LINCOLN.—Mr. Tanner explained there are some 150 bureaus, all independent.

Dr. LOWELL.—I know.

Mr. LINCOLN.—I wonder if they had any such curse, if it is a curse?

Dr. LOWELL.—No; they are carefully grouped under single ministers. A new bureau may be added to a department, but always under that head, and every department is represented in the ministry and the House of Commons.

Mr. RHEES.—But not by a new minister?

Dr. LOWELL.—No. But there are some ministers in the House of Commons to whom every bureau chief can go and say, "We represent our department. Don't you want to answer this question? Or don't you want to bring out this fact? Or don't you want to introduce this bill?"

Mr. DEYO.—Is there any minister who represents labor?

Dr. LOWELL.—The labor interests come under the Board of Trade.

Chairman TANNER.—Are there any further questions, gentlemen?

Mr. CULLINAN.—Just one question, doctor. Do you want to say anything in reference to the fidelity in the discharge of his duties by a public officer depending upon whether he is an appointee or elected by the people?

Dr. LOWELL.—Well, I don't know that I could say anything that would be of any value in regard to fidelity. I can say something in regard to the kind of officer who would naturally be chosen by one method or the other. My own experience is in watching things, and also in studying government, that it is true that the public can estimate certain qualities very well, but not



What I always say to myself is, and I think I am a voter of average intelligence, when I go to the polls and find I have got to stop and ask somebody how to vote, because the list is so long of names I don't know, I feel that probably a great many other people are in the same situation and feel the same as I do, whereas, if the number were less, I know I should vote more intelligently. I think the American public is a little too willing to undertake a great many things they cannot do well. I think we are inclined to try to do such things; I think that is our national temptation. Many successful business men are men whose business has grown big and they simply cannot adopt the method of a big business, but have to adopt the methods of a small business. I think that is the trouble with our people.

We have grown big, and we are quite unconscious of how big we have grown, and we still think we can run things as we did while we were little.

Chairman TANNER.— If that is all, Mr. Chairman, I move that this Committee extend thanks to Dr. Lowell for coming and addressing us.

Mr. CULLINAN.— I second the motion.

Which motion was unanimously carried.

Chairman STIMSON.— President Lowell, I assure you, on behalf of both Committees, that we are very much indebted to you for coming and for the delightful way in which you have presented the matter to these Committees.

Dr. LOWELL.— I thank you, I am sure, and I assure you I rather enjoyed having the afternoon with you.

Whereupon the hearing adjourned.























If that law were complied with by any administration, it would more nearly give us a responsible budget system than anything else that can be devised, because it does this: It requires an administration to estimate how much money is required to conduct the public service. It then requires the fiscal officer of the government to estimate how much revenue will be produced under the existing laws. If the revenue will not be sufficient to meet the expenditure that the administration deems desirable and necessary, then the responsibility is put upon the President, who is the head of the administration to say, first, whether some of these things that the members of his cabinet have suggested, should be done during that year, can without injury to the public service be omitted, and if they cannot, how, in his opinion, money should be obtained to meet these expenses, either by the way of loans or taxes.

THE CHAIRMAN.— That statute has in it the germ of a budget system, has it not?

MR. FITZGERALD.— It is, as near as we can come to it, under our theory of the government, unless we want to radically change it and so intermingle the executive and legislative branches of the government as to give members of the administration a place in the houses of Congress. Now, that statute has been avoided, and a most notorious instance of it is the following: I read the statement of a law where, after the estimates are transmitted to Congress, supplemental or additional estimates cannot be transmitted unless to carry out legislation which has been enacted subsequently to the date when the estimates are required to be submitted to Congress or unless deemed imperatively necessary by the happening of some subsequent event, and in that instance the head of the department must transmit in connection with the estimate a full explanation of the reasons which make it imperative.

Well, there was an estimate submitted to Congress for a certain purpose for a million dollars, and in compliance apparently with that statute, the head of the department made this statement: "This estimate was not included in the annual book of estimates because of the desire to keep the estimates as low as possible."



in a single, solitary iota, the affairs of the government were in any way injured, any public service was hindered or damaged, or was not conducted even better than if they had the \$59,000,000 they didn't get. Not only that. I undertake to say that without any trouble at all, if there were only half a chance, in the sixteen years I have been in Congress, the government could have been as well conducted for from fifty to one hundred million dollars less than it has been conducted for.

THE CHAIRMAN.—A year?

Mr. FITZGERALD.—I don't say three hundred, but it would average from fifty to a hundred.

THE CHAIRMAN.—Each year?

Mr. FITZGERALD.—Each year.

Mr. PARSONS.—That \$59,000,000 you refer to in connection with the Sundry Civil Bill is spread over four years?

Mr. FITZGERALD.—Fifteen million dollars a year; average of \$15,000,000 a year in a bill which would average about \$115,000,000 a year; so it would be about 14 per cent., roughly, of the amount that was requested; and even then I know that I had to consent to a large number of items that I knew and everybody else knew were not essential for the proper maintenance of the government.

THE CHAIRMAN.—Well, isn't it a fact —

Mr. FITZGERALD.—That is inherent, of course, in our system of government.

THE CHAIRMAN.—that the estimates, as they now go in, are too high, as everybody knows.

Mr. FITZGERALD.—Well, there is this, Mr. Chairman, I think we should bear in mind. Of course, the man who is conducting a great department of the government, if he is of any real value as an executive, becomes very greatly impressed with the importance of his work, with its necessity and with the desirability of its proper extension; and he is planning and proposing the extension







the judiciary, although the two-thirds provision would give them power to do that.

THE CHAIRMAN.— Won't you read that provision to the Committee?

MR. FITZGERALD.— Yes, I have that here.

THE CHAIRMAN.— The Confederate Constitution.

MR. FITZGERALD.— Article 1 of Section 9 of the Confederate Constitution:

“Congress is forbidden to appropriate money from the treasury except by a vote of two-thirds of both houses unless it be asked by the head of a department and submitted by the President or be asked for the payment of its own expenses or of claims against the Confederacy declared by a judicial tribunal to be just.”

That is, that the determination of a court—the final determination of a court of a claim against the Confederate government was paid without the intervention of the executive department. And we have in practice what is similar. That is, all judgments of the court are certified to the House of Representatives as audited claims, and they are included automatically in one of the appropriation bills, with the provision that they shall not be paid unless the time of appeal has expired, or unless the Attorney-General certified they do not intend to appeal.

THE CHAIRMAN.— That provision you have read is quite similar to the one existing for 200 years in the House of Commons rule, isn't it?

MR. FITZGERALD.— Yes.

THE CHAIRMAN.— Have you that with you?

MR. FITZGERALD.— The rule of the House of Commons is:

“This House will receive no petition for any sum relating to public service or proceed upon any motion for a grant or charge upon the public revenue \* \* \* unless recommended by the Crown.”

But there is a distinction. The recommendation by the Crown,























**Mr. PARSONS.**—The same is true of the pension agencies?

**Mr. FITZGERALD.**—The same is true of the pension agencies. We had an antiquated system by which a pension voucher was made out in the Pension Office in Washington. There were nine or ten or twelve agencies with the agent receiving from \$3,500 to \$4,500 a year, with an office there. Those vouchers were mailed from Washington to the agent's office and from there to the pensioner, and they were executed and returned to the agent's office and then to Washington, and then the checks were sent out.

We, after a number of years, abolished the agencies and provided for the adoption of the voucher checking system, so that now when a pension is due, a man is mailed his pension check, with a voucher attached, and the one act of endorsing the check, having it witnessed by two witnesses, completes the whole transaction. And that is natural.

Public opinion in a locality is very peculiar. That is the effect of public opinion that controls the action of legislatures and the representative of a community who has in that community certain positions which are filled more or less upon his recommendation must be a man of very unusual political virtue to aid in the abolishing of the positions while his party is in power and his friends have the offices. (Laughter.)

**Mr. LOW.**—**Mr. Fitzgerald.** I gathered from what you said, and I am interested to know whether I understood you correctly, that you thought that under our American system it would be judicious to give the Executive the suggestion of a budget to be passed upon by the Legislature under conditions which would prevent the Legislature from increasing an item except by a two-thirds vote. Was that the idea you intended to convey?

**Mr. FITZGERALD.**—I hardly think that it would be wise to—that is, I am speaking of my experience in the Federal government—whether it would be wise at one step to completely deprive Congress of the right to appropriate the ordinary expenditures of the government unless the Executive had estimated. But I would make it so difficult for them to do it, that the times they would do it would be only such occasions when there could











Mr. FITZGERALD.—You have got to have courage first, in some place, and then proper publicity.

Mr. LINCOLN.—Under your plan of budget, the budget is to go from the executive to the House of Representatives?

Mr. FITZGERALD.—Well, under our law, all estimates are transmitted to the House of Representatives by the Secretary of the Treasury, the heads of departments and independent establishments that do not happen to be under a head of a department, by the 15th of October; must be transmitted to the Secretary of the Treasury. He is required to classify them, arrange them properly, and if they are not presented properly, to arrange them. If the estimates are not presented he must prepare them, and there are certain requirements of the statute requiring that they must submit reference to the statute authorizing the particular expenditure, and where it is found. That comes in what is known as a book of estimates.

Mr. LINCOLN.—My point was this: The House of Representatives under your plan, I believe, may lower but not increase the recommendations of the Executive. Is that correct?

Mr. FITZGERALD.—Yes.

Mr. LINCOLN.—Well, then, what becomes of it when it goes to the Senate? They may only lower but not increase the appropriations of the House?

Mr. FITZGERALD.—Well, under that plan the Senate ought to be bound by the same rule that they might recommend within the estimates submitted, but should not have a right to include things not estimated, because I would sooner give the House the larger power than the Senate on these matters, but one House should not have a power in that respect that the other does not have.

THE CHAIRMAN.—Your plan involved having both houses bound by the same rule?

Mr. FITZGERALD.—By the same rule, because if the Senate could increase or amend in regard to the recommendations you would simply transfer to the Senate all legislative power, or if





Naval Committee has the naval bill. The Committee on Indian Affairs has the bill for the support of the Indian Service. The Committee on Foreign Affairs has the Diplomatic Service bill for the support of diplomatic and consular service. The Committee on Appropriations has the legislative, executive and judicial, all the deficiency bills, the District of Columbia bill, the Sundry Civil Appropriation bill, and the Pension Appropriation bill.

The Committee on Rivers and Harbors appropriate for rivers and harbors.

Mr. C. NICOLL.— And the public buildings.

Mr. FITZGERALD.— I think those are the eight.

Mr. C. NICOLL.— Well, is the conference between you all?

Mr. FITZGERALD.— Well, what happens is this: The estimates for the Naval Establishment, excepting the Naval Establishment in Washington, that is, the administrative department, go to the Committee on Naval Affairs. Well, they pay no attention to how much revenue we are going to have. That Committee has jurisdiction of the legislation for the Navy. Now, if they recommend and pass a bill to extend the activities in some way of the Navy Department, when it comes to recommend money to carry out the service, why, they are in sympathy with the department head as to the amount required. The Committee on Appropriations has no legislative jurisdiction. We cannot recommend any legislation of any kind. We only can consider the estimates for money for some service which is authorized by law.

Mr. C. NICOLL.— Don't these Committees get together for the purpose of making their appropriations according to the revenues?

Mr. FITZGERALD.— No. We tried it informally, to get the Chairman of these Committees together and agree, but every Committee but the Committee on Appropriations, insisted that there was no way by which they could reduce the sums appropriated for their departments, so the economies had to be effected by the Committee on Appropriations. I have a statement which will show how that works out in one of these speeches. I put

those figures in. This is a statement I made on the 15th of March of this year.

The total appropriations made in the seven annual appropriation acts excluding river and harbor budgets, because they are not for the conduct of any branch of the service and prepared by the Committees on Agriculture, Military Affairs, Foreign Affairs, Naval Affairs, Indian Affairs — Post Office and Post Roads was the other Committee — respectively for the four year period 1913 to 1916, amounted to \$2,265,000,000; for the corresponding four year period from 1909 to 1912 they amounted to \$1,979,000,000, an increase of \$286,000,000.

Now, the estimates submitted for the period 1913 to 1916, on which they were based, amounted to \$2,264,000,000, or \$11,515,000 less than Congress actually appropriated. Outside committees in the four years appropriated for those departments \$11,500,000 more than the departments said they wanted.

The appropriations made in the fall regular appropriation not including the Pension Act, and including all deficiency acts which were prepared by the Committee on Appropriations, which has a number of these bills, for the four year period of 1913 to 1916, amounted to \$718,000,000, and for the corresponding period 1909 to 1912, to \$799,000,000, a reduction actually made during the latter period under the earlier period of \$81,000,000, or about ten per cent. The estimates submitted to Congress during the period 1913 to 1916, on which those acts were based, amounted to \$819,000,000, or \$100,950,000 more than Congress actually appropriated, so that the Committee on Appropriations in the four years recommended appropriations in the bills that it had control of \$100,000,000 less than the departments asked for, while these other Committees combined made them \$11,500,000 more than they asked for.

Now, I can give you an expert's explanation of why that happens. I put it in a speech I had. A man interested in the department was complaining that the service in which he was interested did not get liberal appropriations and he undertook to show why, and it is the most illuminating statement that has ever been made.

Dr. Harlan Updegraff, of the Bureau of Education, in the





once moved, indeed is, in my judgment, although I think it is not pending, an utterly ridiculous proposition, I believe it would cost this government \$20,000,000 if the appropriations were scattered to the several committees. \* \* \* I do say, sir, without the slightest question in my own mind of the truth of the statement, that the scattering of these appropriations as suggested by the gentlemen here will be absolutely breaking down all economy and good order and good management of our finances. It can not be otherwise."

Those predictions were borne out by what resulted following the distribution in 1885. And the same result followed in the Senate.

Mr. PELLETREAU.—May I ask a question? If the introduction of all bills containing an appropriation were confined to the lower House, would or would it not be in the interests of the State that such appropriation be not increased in the Senate?

Mr. FITZGERALD.—If they were all confined to one body?

Mr. PELLETREAU.—If the introduction were confined to the lower House.

Mr. FITZGERALD.—That would be a radical departure from —

Mr. PELLETREAU.—Yes.

Mr. FITZGERALD.—from the underlying theory of the system of government, of Federal system, of State government. Our legislative department of government has been erected upon the theory that the two Houses should have equal legislative powers, and I doubt whether —

Mr. PELLETREAU.—Wouldn't that stop log rolling between the lower House —

Mr. FITZGERALD.—No, I think not. Where that is in force, it is in the parliamentary system of government where the House of Lords now cannot do very much with the supply bills. But the overwhelming controlling reason for that is that the Commons directly represent the people and the minute they reject the important proposals of the government, the government must appeal



that it did not want. There was a continuous struggle on the part of the Crown to get grants from the people, and the people to secure concessions and rights from the Crown, and they bartered one thing for the other. The Commons would not give the Crown its necessary grant of supplies unless it would remedy certain grievances. We have not that situation. Our Legislatures are not trying to get the Executive to give certain redress to the country or certain relief, and it is the difficulty of trying to take a system based upon that underlying principle of government and engraft it on ours which is so different, which separates distinctly and completely the three departments of government. What should be done, in my opinion, is taking our present system, to have a proper appreciation of the evils that have grown up, and direct remedies to the correction of the evils that have grown up; not to attempt to completely reconstruct a new system, and tear down and wipe out the existing one.

Mr. WAGNER.—I was going to ask you whether you believed that the other elective officers of the State should also be dependent upon the judgment of the Executive as to the appropriations which they asked for.

Mr. FITZGERALD.—That is one of the difficulties that arise under our present State government, and it differentiates this situation completely from the situation in the Federal government. In the Federal government, the President selects the heads of his departments, and it is his administration. Now, under our existing Constitution and present ballot, we might very easily have an Executive and several important State officials belonging each to a different political party.

Mr. WAGNER.—That has happened recently in the State.

Mr. FITZGERALD.—Yes; it happened, but there might be—it would be more easy under our new ballot. You might have a man representing either political party in the State government, and that is one of the difficulties to which I have given a good deal of thought to try and work out a solution. We always make a mistake as soon as we yield to this suggestion that you can trust the Executive. Now, that is the common expression in the Legislative





Not that I mean that men who become public officials are in any way degenerate, but the fact is that a man who is a public official is human all the time. It is not as easy to reconcile men of different political faiths, as to the appropriateness of certain things in different departments under different men.

THE CHAIRMAN.— You realize one of the problems before the Convention is the very question whether we should not change that system so that it would make these different elective officers appointive, and avoid this very possibility of divergence you have just spoken of. Is it your opinion that the two questions would interlock that question with the budget question somewhat?

MR. FITZGERALD.— Well, no. I would not like to express that. I have read something of the history of the State of New York, and concentration of the power of appointment, and I have such positive views that I don't think I ought to interject.

MR. D. NICOLL.— What difficulty is there in a Republican Governor and a Democratic Comptroller or Attorney-General on the board to make a budget? They are all engaged in trying to administer the government economically.

MR. FITZGERALD.— The very point of objection, Mr. Nicoll, is this: That you diffuse responsibility and power. If the system could be worked out where the Executive had to stand out before the people of the State as the man responsible primarily for the fiscal condition of the State, you would have a situation then where if the people were grossly dissatisfied, you would know whom to hold responsible.

MR. D. NICOLL.— The board of estimate in the city of New York under Gaynor's administration was composed of different parties, and it often has been, don't you know?

THE CHAIRMAN.— It has raised considerable difficulty.

MR. NICOLL.— Yes, but they worked something out of it.

MR. FITZGERALD.— But they usually, the public at least, the city of New York, usually see the Mayor more than anybody else, whether he is the responsible person or not.







Mr. SCHURMAN.— That clause, as I understood it — they provided that the executive departments should submit estimates to the Confederate legislature.

Mr. FITZGERALD.— Provided that the departments could not appropriate money unless submitted by the President or the heads of departments except by a two-thirds vote.

Mr. SCHURMAN.— Now, would you say that would be a wise measure of reform, for Congress, for the United States, would you think that a wise policy to adopt in a State if the State also had a unitary executive department?

Mr. FITZGERALD.— Well, of course, my experience has been limited to the Federal government, and I am not sufficiently informed as to the detailed operations of the Legislature, to express an intelligent opinion. I speak from my own experience and knowledge in the other field, but it differs, the procedure differs radically, I am quite certain, in this State and in Washington.

Mr. SCHURMAN.— I understand that; I understood that. I was trying to follow you.

Mr. FITZGERALD.— I have not the slightest hesitation in saying that much better results would be obtained if the individual in the two houses of Congress could not initiate expenditure by increasing the amount proposed by the Executive, or proposing expenditures that the Executive did not wish, but I would not make that absolutely impossible, but would make it so difficult, and loading him down, that it would only be done under the most peculiar and extraordinary circumstances.

Mr. SCHURMAN.— I should think, then, if we had a State with a unitary executive department, the chances are that that would also be a good measure of reform, to begin with?

Mr. FITZGERALD.— In the State government, you have to have a check on that, that we have not in the Federal government, the veto power of the Governor over the item in the appropriation bill. If the Legislature puts something in the Supply or Appropriation bill that is not asked, the Governor has the veto power. We do not have that in the Federal government.



he must defend it, and if it is an important matter and he is defeated, he submits his resignation, or it might be sufficiently important to compel the whole government to go out: but just to give these members of the Cabinet a right to come in and lecture and browbeat and overawe and develop public opinion so as to coerce the Legislature, we have enough of that already and we would not get anything effective. He would have the sole right as a member of the House, and if somebody asked a question that it would be embarrassing to answer, he would exercise the right of a member of the House and decline to yield.

MR. PARSONS.—In regard to your suggestion of having the Executive prepare the appropriation bill, what would you think of having the officer there to answer questions?

MR. FITZGERALD.—He doesn't prepare the appropriation bills. He does in the parliamentary system. He prepares the appropriation bill and he brings it in and must put it through, but with us he doesn't prepare the appropriation bill.

MR. PARSONS.—But supposing he did, as you suggested —

MR. FITZGERALD.—Then you completely revolutionize our system of government. You are intermingling the Executive and the legislative branch, and you are breaking down one of those divisions we consider essential.

THE CHAIRMAN.—I think what Mr. Parsons suggested was this: Suppose with a view to making the estimates which you just stated were apt now to be so high and irresponsible, suppose Congress assumed the power to call the head of the department in, whose estimate it was, and to ask him questions in public on it, what effect do you think that would have upon the future responsibility of the officer in making similar estimates?

MR. FITZGERALD.—I don't think it would be effective. I have sat for sixteen years in committees where five men have tried to get information out of members of the Cabinet.

THE CHAIRMAN.—That was not in public.

MR. FITZGERALD.—It does not make much difference. You would have 434 men in the House, and any one of them had a









Committee recommends; but it is to help him to get the things the Committee refuses to recommend. By the time they got finished, there would not be much left to distribute.

Mr. PELLETREAU.— Mr. Fitzgerald, if the Governor should be clothed with the power to submit a statement to the Legislature, wouldn't it be wise that there be an official or bureau performing the functions of Commissioner of Efficiency and Economy, I think it was called, under the control of the Governor, appointed by him, and answerable to him?

Mr. FITZGERALD.— No; I should take it away from the Governor. It ought to be independent. It ought to be for the benefit of the legislative body, not the administrative body. They have all the knowledge and sources of information they need. What is needed, if anything is needed, are independent means of information for the legislative body. That has been the experience I have had in the Federal government.

Mr. PELLETREAU.— Then I understand you to say there should be such an official or bureau —

Mr. FITZGERALD.— No; I say anything that aids in furnishing information — the experience in Congress is that it would very materially help the committees in Congress if there was some force or body responsible and answerable to the House that would obtain information independently; not that the departments and the men in them are dishonest, but there is frequently room for a very wide difference of opinion as to the advisability or propriety of doing a thing one way or another, and the most effective check is the obtaining of information from independent sources.

THE CHAIRMAN.— Don't feel that you must stand up, Mr. Fitzgerald, you have been standing a long time.

Mr. FITZGERALD.— I just as soon stand.

Mr. SCHURMAN.— Have you some extra copies of that speech?

Mr. FITZGERALD.— I have promised to send some to the Chairman.

THE CHAIRMAN.— What is that?

Mr. FITZGERALD.— I said I would send you some of those speeches.

THE CHAIRMAN.— I hope you will. We will be very glad to get them.

Have any of the members of the committee any further questions to ask Mr. Fitzgerald?

I am sure that I voice the sentiments of every member of the Committee in telling you, Mr. Fitzgerald, that we are very much obliged to you for coming and for what you have told us in reference to the operations of the Federal Congress, and I feel certain it will be of great usefulness in the deliberations of the Committee.





the Court of Claims or Board of Claims in each year of the last five years.

“4. The total amount paid by the State in satisfaction of claims in each year of the last five years.

“5. The geographical distribution of pending claims, stated by counties.

“6. A classification of pending claims by number and amount involved, showing:

“a. Claims arising from appropriations made by the State in the course of the Barge canal improvement.

“b. Cases on contract growing out of the Barge canal improvement.”

Accompanied you will please find charts (by counties) upon which are registered the number of pending claims classified by years, the nature of the claims and the amount claimed up to May 1, 1915.

You will also find charts showing the classification of claims by counties, the character of claims by counties, the number of claims and the amount claimed as of all claims now pending in the Court of Claims in the State as a whole.

The resolution requested classification of pending claims by number and amount, showing claims arising from appropriations and because of contracts in connection with the Barge canal improvement. The data furnished not only shows this character of information concerning the Barge canal, but concerning the old canal and other classifications which are enumerated hereinafter, viz.:

OLD CANAL:	Number	Amount
A. Leakage and overflow.....	66	\$97,247 65
B. Damage .....	3	4,376 00
C. Claims, services .....	120	27,000 28
	<hr/>	<hr/>
Total, old canal.....	189	\$128,623 93
	<hr/>	<hr/>

#### BARGE CANAL:

A. Permanent appropriations...	865	\$51,086,312 78
B. Water rights .....	38	3,205,719 25
C. Leakage and overflow.....	662	1,017,012 41

	Number	Amount
D. Contracts . . . . .	37	\$3,570,342 77
E. Negligence . . . . .	151	565,554 34
F. Pollution, streams . . . . .	2	42,515 71
G. Closing navigation . . . . .	2	61,102 30
H. Damage to boats . . . . .	13	16,510 95
	<hr/>	<hr/>
Total, Barge canal . . . . .	1,770	\$59,565,070 51
	<hr/>	<hr/>
Total, both canals . . . . .	1,959	\$59,693,694 44
	<hr/> <hr/>	<hr/> <hr/>

**HIGHWAYS:**

A. Contracts . . . . .	22	\$698,740 10
B. Damage . . . . .	5	14,635 00
C. Highway damage . . . . .	2	11,462 26
D. Pro rate bond tax . . . . .	1	122 00
E. Permanent appropriation . . . . .	1	150 00
	<hr/>	<hr/>
Total, highways . . . . .	31	\$725,109 36
	<hr/> <hr/>	<hr/> <hr/>

**STATE RESERVATIONS:**

A. Permanent appropriation . . . . .	7	\$294,052 00
B. Use of land and water . . . . .	1	400 00
C. Appropriation, timber . . . . .	2	82,053 17
D. Damage by animals . . . . .	8	3,270 27
	<hr/>	<hr/>
Total, State reservations . . . . .	18	\$379,775 44
	<hr/> <hr/>	<hr/> <hr/>

**MISCELLANEOUS CLAIMS:**

A. Negligence . . . . .	79	\$495,246 66
B. Contract . . . . .	22	638,073 19
C. Damage . . . . .	14	90,771 03
D. Excise . . . . .	1	11,460 00
E. Salaries, employees . . . . .	9	19,094 82
F. Loss of property . . . . .	1	200 00
G. Failure to deliver goods bought at public sale . . . . .	1	82 50



	Number	Amount
H. County taxes on railway bonds	5	\$20,407 84
I. Taxes .....	2	4,922 64
J. Refund of money occasioned by erroneous affixture of stock transfer stamps.....	297	605,097 66
K. Refund of money erroneously deposited by county treas- urer, Kings county.....	1	3,485 35
	<hr/>	<hr/>
Total, miscellaneous claims	432	\$1,888,837 19
	<hr/>	<hr/>

The classification above stated is particularly set out as to the individual character of claims in accordance with the resolution, by counties, each county, as stated above, carrying all the information under a separate pamphlet. For the purpose of explanation, however, it would suffice to state that the general classifications referred to above furnishes the following information:

	No. of claims	Amount
OLD CANAL .....	189	\$128,623 93
BARGE CANAL.....	1,770	59,565,070 51
	<hr/>	<hr/>
Total, canals .....	1,959	\$59,693,694 44
HIGHWAYS .....	31	725,109 36
STATE RESERVATIONS .....	18	379,775 44
MISCELLANEOUS .....	432	1,888,837 19
	<hr/>	<hr/>
Grand total .....	2,440	\$62,687,416 43
	<hr/>	<hr/>

The classification of claims in subdivisions above set out is in some instances not without criticism. The classification of the subdivisions under the general classification of miscellaneous claims seems to me could more comprehensively be covered by four subdivisions, such as negligence, contract, damage and taxes. Under such classification the classification of taxes would cover



YEAR	Agreements	Amount of settlement
1915, Jan. 1-June 1..	51.....	\$38,831 21

These agreements cover 68 separate parcels of land on 27 different Contracts.  
Included in this number of agreements are three agreements covering three parcels of land appropriated for Barge canal terminals, the amount of settlement for which was \$333.18. These settlements cover two different terminal Contracts.

Subdivision 4 of the resolution, viz.:

“The total amount paid by the State in satisfaction of claims in each year of the last five years,” ending December 1, 1914:

1910 .....	\$257,034 40
1911 .....	745,961 85
1912 .....	516,055 44
1913 .....	1,328,217 92
1914 .....	1,039,955 18
	<hr/>
	\$3,887,224 24
	<hr/>

The claims paid in the course of these years have been, when particularly discussed as to the character of the fund payment, from the following funds: General, Old Canal, Barge Canal, and Terminal.

*Subdivision of Resolution Affecting the Department of the Attorney-General*

The resolution further requested, viz.:

“Further resolved, That the Superintendent of Public Works, the State Engineer and Surveyor and the Attorney-General transmit to the Convention, at their earliest convenience, the following information relating to matters pending and disposed of during each of the ten years last past, before the Courts of Claims and the Boards of Claims, so far as such information shall be of record in their respective offices, viz.:

“ 1. The amounts paid in each year to officers, employees, agents, investigators and representatives of such departments, respectively, for services, fees, expenses and disbursements in relation to matters before said courts or boards.



in connection with cases in this court, salaries totaling \$12,000, so that there is a general demand upon this department for salaries, as estimated at this time, of \$40,000.

In addition to the figures above stated, permit me to state that in consideration of the demands above referred to, I have found it necessary to assign some cases, such as highway matters, etc., to other deputies in the department in order that they may be properly prepared and ready for trial at the earliest possible moment.

All of which is respectfully submitted.

E. E. WOODBURY,  
*Attorney-General.*

**Canal System — State of New York — Claims Pending May 1, 1915**

COUNTY	OLD CANAL							
	Leakage and overflow		Damage		Services, claims for overtime		Total old canal	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount
1 Albany.....	1	\$850 00					1	\$850 00
2 Bronx.....								
3 Broome.....								
4 Cattaraugus.....								
5 Cayuga.....	13	7,831 00					13	7,831 00
6 Chemung.....								
7 Chenango.....								
8 Clinton.....								
9 Columbia.....								
10 Cortland.....								
11 Delaware.....								
12 Dutchess.....								
13 Erie.....								
14 Franklin.....								
15 Fulton.....								
16 Genesee.....								
17 Hamilton.....								
18 Herkimer.....	1	500 25			67	\$15,373 44	68	15,873 69
19 Jefferson.....								
20 Kings.....								
21 Lewis.....								
22 Livingston.....								
23 Madison.....	2	4,414 00					2	4,414 00
24 Monroe.....			1	\$500 00			1	500 00
25 Montgomery.....	1	600 00			44	9,511 54	45	10,111 54
26 New York.....								
27 Niagara.....				2,500 00			1	2,500 00
28 Oneida.....	24	23,898 75					24	23,898 75
29 Onondaga.....	7	3,163 00		1,376 00			8	4,539 00
30 Ontario.....								
31 Orange.....								
32 Orleans.....	2	5,200 00					2	5,200 00
33 Oswego.....	1	450 00					1	450 00
34 Queens.....								
35 Rensselaer.....								
36 Rockland.....								
37 St. Lawrence.....								
38 Saratoga.....								
39 Schenectady.....	2	9,170 00			7	1,808 80	9	10,978 80
40 Schuyler.....	5	35,384 41					5	35,384 41
41 Seneca.....								
42 Steuben.....								
43 Suffolk.....								
44 Sullivan.....								
45 Tompkins.....								
46 Ulster.....								
47 Warren.....								
48 Washington.....	7	5,786 24			2	306 50	9	6,092 74
49 Wayne.....								
50 Westchester.....								
Totals.....	66	\$97,247 65	3	\$4,376 00	120	\$27,000 28	189	\$128,623 93

Canal System — State of New York —

COUNTY	BARRE CANAL									
	Permanent appropriations		Water rights		Leakage and overflow		Contracts		Due to the fault or negligence of the State	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
1 Albany.....	7	\$813,222 50	...	.....	15	\$39,849 85	...	.....	...	.....
2 Bronx.....										
3 Broome.....										
4 Cattaraugus.....					6	64,000 00				
5 Cayuga.....	11	86,255 07			1	200 00				
6 Chemung.....										
7 Chenango.....										
8 Clinton.....										
9 Columbia.....										
10 Cortland.....										
11 Delaware.....										
12 Dutchess.....										
13 Erie.....	4	1,910,397 24							1	\$329 53
14 Franklin.....										
15 Fulton.....										
16 Genesee.....					5	5,000 00				
17 Hamilton.....										
18 Herkimer.....	97	9,448,455 14			138	205,719 50	3	\$270,864 02	1	22,000 00
19 Jefferson.....										
20 Kings.....										
21 Lewis.....										
22 Livingston.....										
23 Madison.....			1	\$320 00	25	12,880 01			1	200 00
24 Monroe.....	77	2,460,947 69	6	26,500 00	33	31,207 34	8	1,260,801 32	19	48,039 11
25 Montgomery.....	55	454,580 86	1	3,255 00	28	23,269 93	2	27,583 39	1	100 00
26 New York.....	5	1,484,389 96								
27 Niagara.....	43	178,370 15			4	2,445 00			5	9,868 29
28 Oneida.....	98	2,417,128 25	5	13,383 60	110	48,443 58	1	24,638 02	24	25,737 68
29 Onondaga.....	43	961,104 54	1	15,000 00	53	49,491 12	1	57,387 60	25	69,775 47
30 Ontario.....	2	9,500 00								
31 Orange.....										
32 Orleans.....	92	1,974,520 94			7	10,958 14	2	247,565 36	3	2,942 68
33 Oswego.....	74	9,217,491 34	15	2,399,811 70	72	190,843 12	1	3,799 97	29	196,841 89
34 Queens.....	1	1,190,187 85								
35 Rensselaer.....	3	5,297,367 46					2	449,357 42		
36 Rockland.....										
37 St. Lawrence.....										
38 Saratoga.....	44	4,754,090 65	2	117,230 00	37	50,138 94	2	53,067 80	6	61,799 95
39 Schenectady.....	19	1,143,300 30	1	573,803 03	55	231,883 80			18	35,874 03
40 Schuyler.....	4	83,201 10			1	3,363 00				
41 Seneca.....	80	2,492,608 08							1	2,640 00
42 Steuben.....										
43 Suffolk.....										
44 Sullivan.....										
45 Tompkins.....	2	1,250 00								
46 Ulster.....										
47 Warren.....	1	1,750 00			3	920 00				
48 Washington.....	27	1,134,672 01	3	5,032 08	52	38,572 10	14	1,046,184 52	13	82,361 00
49 Wayne.....	76	3,571,521 65	3	51,383 84	17	7,167 08	1	129,093 35	4	7,044 72
50 Westchester.....										
Totals.....	865	\$51,096,312 78	38	\$3,205,719 25	662	\$1,017,012 41	37	\$3,570,342 77	151	\$565,554 34

[illegible]





## State of New York—Claims Pending May 1, 1915 —Continued

COUNTY	STATE RESERVATIONS									
	Permanent appropriation		Use of land and water by Forest, Fish and Game Commission		Appropriation of timber		Damage caused by animals		Total	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
1 Albany.....										
2 Bronx.....										
3 Broome.....										
4 Cattaraugus.....										
5 Cayuga.....										
6 Chemung.....										
7 Chenango.....										
8 Clinton.....										
9 Columbia.....							2	\$2,345 00	2	\$2,345 00
10 Cortland.....										
11 Delaware.....							1	11 50	1	11 50
12 Dutchess.....										
13 Erie.....										
14 Franklin.....	1	\$1,900 00							1	1,900 00
15 Fulton.....										
16 Genesee.....										
17 Hamilton.....					1	\$1,125 00			1	1,125 00
18 Herkimer.....					1	80,928 17			1	80,928 17
19 Jefferson.....										
20 Kings.....										
21 Lewis.....										
22 Livingston.....										
23 Madison.....										
24 Monroe.....			1	\$400 00					1	400 00
25 Montgomery.....										
26 New York.....										
27 Niagara.....										
28 Oneida.....										
29 Onondaga.....										
30 Ontario.....										
31 Orange.....							1	68 27	1	68 27
32 Orleans.....										
33 Oswego.....										
34 Queens.....										
35 Rensselaer.....							1	172 50	1	172 50
36 Rockland.....							1	75 00	1	75 00
37 St. Lawrence.....										
38 Saratoga.....	3	280,000 00							3	280,000 00
39 Schenectady.....										
40 Schuyler.....										
41 Seneca.....										
42 Steuben.....										
43 Suffolk.....							1	254 00	1	254 00
44 Sullivan.....	1	1,176 00							1	1,176 00
45 Tompkins.....										
46 Ulster.....	2	10,976 00					1	344 00	3	11,320 00
47 Warren.....										
48 Washington.....										
49 Wayne.....										
50 Westchester.....										
Totals.....	7	\$294,052 00	1	\$400 00	2	\$82,053 17	8	\$3,270 27	18	\$379,775 44



## Claims Pending May 1, 1915—Continued

## CLAIMS

Loss of property hired by State		Failure to deliver goods bought at public sale		Recovery of county taxes on railway bonds		Recovery of taxes		Total	
No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
.....	.....	.....	.....	.....	.....	.....	.....	13	\$352,461 93
.....	.....	.....	.....	.....	.....	.....	.....	1	1,700 00
.....	.....	.....	.....	.....	.....	.....	.....	1	1,770 50
.....	.....	.....	.....	.....	.....	.....	.....	4	10,826 12
.....	.....	.....	.....	.....	.....	.....	.....	1	10,000 00
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	1	\$1,478 72	.....	.....	1	1,478 72
.....	.....	.....	.....	.....	.....	.....	.....	3	19,710 00
.....	.....	.....	.....	.....	.....	.....	.....	1	387 50
.....	.....	.....	.....	.....	.....	.....	.....	2	4,225 00
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	3	586 00
.....	.....	.....	.....	.....	.....	.....	.....	4	46,105 03
.....	.....	.....	.....	.....	.....	.....	.....	8	64,978 64
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	1	200 00
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	2	74,859 06
.....	.....	.....	.....	.....	.....	.....	.....	3	19,351 14
.....	.....	.....	.....	.....	.....	.....	.....	2	2,425 14
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	1	150 00
.....	.....	.....	.....	.....	.....	.....	.....	1	146,159 90
.....	.....	.....	.....	.....	.....	.....	.....	3	6,479 00
.....	.....	.....	.....	.....	.....	.....	.....	9	14,421 71
.....	.....	.....	.....	.....	.....	.....	.....	1	25 00
.....	.....	1	\$82 50	.....	.....	2	\$4,922 64	6	17,464 64
.....	.....	.....	.....	.....	.....	.....	.....	2	3,305 00
.....	.....	.....	.....	.....	.....	.....	.....	5	23,855 00
.....	.....	.....	.....	.....	.....	.....	.....	21	286,016 05
.....	.....	.....	.....	.....	.....	.....	.....	3	22,125 00
.....	.....	.....	.....	1	1,091 56	.....	.....	6	38,173 71
.....	.....	.....	.....	1	7,021 31	.....	.....	3	4,490 00
.....	.....	.....	.....	.....	.....	.....	.....	2	17,021 31
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	1	5,000 00
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	1	9,173 63	.....	.....	4	28,439 29
.....	.....	.....	.....	.....	.....	.....	.....	1	10,000 00
.....	.....	.....	.....	.....	.....	.....	.....	4	9,615 05
.....	.....	.....	.....	.....	.....	.....	.....	1	350 00
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	1	5,000 00
.....	.....	.....	.....	.....	.....	.....	.....	1	12,000 00
.....	.....	.....	.....	.....	.....	.....	.....	1	2,309 66
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....	1	22,691 14
.....	.....	.....	.....	.....	.....	.....	.....	1	500 00
1	\$200 00	.....	.....	1	1,642 62	.....	.....	4	9,681 00
.....	.....	.....	.....	.....	.....	.....	.....	1	2,000 00
.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1	\$200 00	1	\$82 50	5	\$20,407 84	2	\$4,922 64	134	\$1,208,254 18
Refund of money for stock transfer stamps.....								297	605,097 66
Refund of money, Kings county.....								1	3,185 35
								432	\$1,888,837 19

## State of New York — Total

	CLASSIFICATION					
	Old canal		Barge canal		Total canals	
	No.	Amount	No.	Amount	No.	Amount
1 Albany.....	1	\$850 00	23	\$853,841 96	24	\$854,691 96
2 Bronx.....						
3 Broome.....						
4 Cattaraugus.....			6	64,000 00	6	64,000 00
5 Cayuga.....	13	7,831 00	12	86,455 07	25	94,286 07
6 Chemung.....						
7 Chenango.....						
8 Clinton.....						
9 Columbia.....						
10 Cortland.....						
11 Delaware.....						
12 Dutchess.....						
13 Erie.....			5	1,910,726 76	5	1,910,726 76
14 Franklin.....						
15 Fulton.....						
16 Genesee.....			5	5,660 00	5	5,660 00
17 Hamilton.....						
18 Herkimer.....	68	15,873 69	239	9,947,038 66	307	9,962,912 35
19 Jefferson.....						
20 Kings.....						
21 Lewis.....						
22 Livingston.....						
23 Madison.....	2	4,414 00	27	13,400 01	29	17,814 01
24 Monroe.....	1	500 00	147	3,834,720 91	148	3,835,220 91
25 Montgomery.....	45	10,111 54	88	509,455 89	133	519,567 43
26 New York.....			5	1,484,389 96	5	1,484,389 96
27 Niagara.....	1	2,500 00	54	192,312 74	55	194,812 74
28 Oneida.....	24	23,898 75	239	2,529,422 43	263	2,553,321 18
29 Onondaga.....	8	4,539 00	123	1,152,758 73	131	1,157,297 73
30 Ontario.....			2	9,500 00	2	9,500 00
31 Orange.....						
32 Orleans.....	2	5,200 00	106	2,240,275 37	108	2,245,475 37
33 Oswego.....	1	450 00	193	12,069,890 32	194	12,070,340 32
34 Queens.....			1	1,190,187 85	1	1,190,187 85
35 Rensselaer.....			5	5,746,724 88	5	5,746,724 88
36 Rockland.....						
37 St. Lawrence.....						
38 Saratoga.....			91	5,036,327 34	91	5,036,327 34
39 Schenectady.....	9	10,978 80	93	1,984,861 16	102	1,995,839 96
40 Schuyler.....	5	35,384 41	6	86,904 33	11	122,288 74
41 Seneca.....			83	2,537,763 79	83	2,537,763 79
42 Steuben.....						
43 Suffolk.....						
44 Sullivan.....						
45 Tompkins.....			2	1,250 00	2	1,250 00
46 Ulster.....						
47 Warren.....			4	2,670 00	4	2,670 00
48 Washington.....	9	6,092 74	110	2,308,321 71	119	2,314,414 45
49 Wayne.....			101	3,766,210 64	101	3,766,210 64
50 Westchester.....						
Totals.....	189	\$128,623 93	1770	\$59,565,070 51	1959	\$9,693,694 41

# Claims Pending May 1, 1915—Concluded

## OF CLAIMS

Highways		State reservations		Miscellaneous		Grand total	
No.	Amount	No.	Amount	No.	Amount	No.	Amount
2	\$306,547 57			13	\$352,461 93	39	\$1,513,701 46
				1	1,700 00	1	1,700 00
				1	1,770 50	1	1,770 50
2	56,503 92			4	10,826 12	12	131,330 04
1	8,026 80			1	10,000 00	27	112,312 87
5	25,385 02					5	25,385 02
				1	1,478 72	1	1,478 72
				3	19,710 00	3	19,710 00
1	28,508 44	2	\$2,345 00	1	380 50	4	31,233 94
				2	4,225 00	2	4,225 00
		1	11 50	3	586 00	4	597 50
1	5,853 74			4	46,105 03	5	51,958 77
2	21,504 50			8	64,978 64	15	1,997,209 90
		1	1,900 00			1	1,900 00
				1	200 00	1	200 00
						5	5,660 00
		1	1,125 00	2	74,859 06	3	75,984 06
2	47,187 99	1	80,928 17	3	19,351 14	313	10,110,379 65
1	11,633 05			2	2,428 14	3	14,061 19
				1	3,485 35	1	3,485 35
				1	150 00	1	150 00
				1	146,159 90	1	146,159 90
				3	6,400 00	32	24,214 01
2	11,000 00	1	400 00	9	14,421 71	160	3,861,042 62
				1	25 00	134	519,592 43
				303	622,562 30	308	2,106,952 26
1	1,025 00			2	3,305 00	58	199,142 74
3	3,519 47			5	23,855 00	271	2,580,695 65
1	301 16			21	268,016 08	153	1,425,614 97
				3	22,125 00	5	31,625 00
1	26,020 72	1	68 27	6	38,173 71	8	64,262 70
				3	4,490 00	111	2,249,965 37
				2	17,021 31	196	12,087,361 63
						1	1,190,187 87
1	9,583 37	1	172 50	1	5,000 00	8	5,761,480 75
		1	75 00			1	75 00
				4	28,439 20	4	28,439 20
		3	280,000 00	1	10,000 00	95	5,326,327 34
				4	9,615 05	106	2,005,455 01
				1	350 00	12	122,638 74
				1	5,000 00	84	2,542,763 79
				1	12,000 00	1	12,000 00
1	132,437 00	1	254 00	1	2,309 66	3	135,000 66
1	7,500 00	1	1,176 00			2	8,676 00
						2	1,250 00
		3	11,320 00	1	22,691 14	4	34,011 14
				1	500 00	5	3,170 00
1	1,610 00			4	9,681 00	124	2,325,705 45
				1	2,000 00	102	3,768,210 64
2	20,961 61					2	20,961 61
31	\$725,109 36	18	\$379,775 44	432	\$1,889,837 19	2440	\$62,687,416 43







four propositions are big and broad enough for all the people to stand on.

We present to you this Bill of Rights confident it will receive your earnest, sympathetic consideration. That it may become a part of your finished work and be incorporated in the fundamental law, we shall ever pray.

Respectfully submitted,

HOMER D. CALL,

*Prest. N. Y. S. F. of L.*

EDWARD A. BATES,

*Secretary-Treasurer.*

*For the New York State Federation of Labor.*

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**AMENDMENTS TO STATE CONSTITUTION PRESENTED TO CONSTITUTIONAL CONVENTION BY THE NEW YORK STATE FEDERATION OF LABOR**

ALBANY, *May 28, 1915.*

1. Resolved, That the Constitution contain a provision as follows: "That the labor of a human being is not a commodity or article of commerce and the Legislature shall not enact a law and the courts shall not construe a law contrary to this declaration."

2. Resolved, That any act which any person may legally and lawfully do shall be held to be legal and lawful when done by two or more in consort.

3. Proposing an amendment to article 1 (section 19 and new section), providing that nothing contained in the Constitution shall be construed to limit the power of the Legislature to enact laws for the protection of the lives, health, safety, comfort or general welfare of employees.

4. For power to enable the State to insure workers against accident, sickness, invalidity, old age and unemployment.

5. To provide a state fund, to insure employers against a risk of workmen's compensation, to the exclusion of every other form of compensation insurance.

6. That there shall be a Department of Labor and a Compensation Commission (function separated) provided for in the Constitution.

7. Empowering the State and its several political divisions to



19. Against the State constabulary and the employment of private armed forces in labor disputes. That the Governor of the State be the Commander-in-Chief of the army and naval forces thereof, and that as such Commander, he alone be empowered to call out any portion or the whole of said forces or either of them in time of need.

20. Resolved, That this conference of the Executive Council and representatives of labor of the State of New York go on record in favor of the constitutional amendment as adopted by the Legislature, to be voted upon at the coming election for woman suffrage, and that all are urgently requested to support the ratification thereof.

21. Resolved, That inasmuch as the so-called "Short Ballot" is a proposition to vest greater powers in the hands of the chief executive of the nation, states and municipalities, it is in violation of the fundamental principles of justice, democracy and freedom. The proposition should therefore not be endorsed but condemned and opposed, and it is hereby condemned.

22. Free Speech and Free Press.—Every person may freely speak, write or publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed by the Legislature to restrain or abridge the liberty of speech or of the press. Nor shall any officer or court of the State, or officer or court of any political division of the State, abridge, enjoin or restrain the liberty of speech or of the press. The question as to whether the rights of freedom of speech, or of the press have been abused, shall be determined by a jury. In all criminal prosecutions for libel, no person shall be found guilty and be punished where the matter alleged to be libelous be true unless the alleged matter was written and published with criminal motives and for wrongful ends.

23. Eight Hours.—In all cases of employment by and on behalf of the State, or any political division thereof, or in any contract for labor or for supplies, by or on behalf of the State, or any political division thereof, not more than eight hours in any twenty-four consecutive hours shall constitute a day's work.

24. Capital Punishment.—Capital punishment, that is, death penalty for crime, is hereby prohibited.



such fund was maintained on a three per cent. amortization basis."

I beg to submit for your consideration the following statements:

### EXHIBIT "A"

*Condensed Balance Sheet of the Sinking Funds of the State as of April 30, 1915.*

### EXHIBIT "B"

*Statement of the Bonded State Debt, Sinking Funds, Reserves or Calculated Balances and Surplus or Excess of Sinking Fund Resources over Reserves or calculated balances as of April 30, 1915.*

#### BONDED DEBT

The total bonded State Debt outstanding as of April 30, 1915, as shown by details in Exhibit "B," was \$186,165,660.00, classified as follows:

Canal Debt .....	\$118,000,660.00
Highway Debt.....	65,000,000.00
Palisades Interstate Park Debt.....	2,500,000.00
Saratoga Springs State Reservation Debt....	665,000.00
	<hr/>
Total.....	\$186,165,660.00
	<hr/> <hr/>

Of this amount the Saratoga Springs State Reservation bonds of \$665,000.00 are redeemable from General Fund revenues. In addition to this amount there has been issued since April 30, 1915, bonds amounting to \$235,000.00, making the total Saratoga Springs Reservation debt as of June 1, 1915, \$900,000.00 for which no sinking funds are maintained, the bonds being paid by appropriations from General Fund revenues.

#### SINKING FUND RESOURCES

The total of the Sinking Fund Resources available for the interest and principal of the debt \$186,500,000.00 for which the funds were established, as shown by the balance sheet, Ex-

hibit "A," as of April 30, 1915, was \$40,568,351.32, classified as follows:

Canal Debt Sinking Funds.....	\$28,881,977.99
Highway Debt Sinking Funds.....	11,443,320.34
Palisades Interstate Park Debt Sinking Fund	243,052.99
<hr/>	
Total.....	\$40,568,351.32

#### SURPLUS

The Surplus or Excess of available resources over the reserves calculated in accordance with the method stated in the Balance Sheet, Exhibit "A," as of April 30, 1915, was \$28,904,706.05, classified as follows:

Canal Debt Sinking Funds.....	\$20,671,850.68
Highway Debt Sinking Funds.....	8,136,684.81
Palisades Interstate Park Debt Sinking Funds	96,170.56
<hr/>	
Total.....	\$28,904,706.05
<hr/>	

#### BONDS AUTHORIZED NOT ISSUED

The bonds authorized, but not yet issued, as of June 1, 1915, amounted to \$44,899,000.00, classified as follows:

For Barge Canal Terminals.....	\$9,800,000.00
For Highways.....	35,000,000.00
For Saratoga Springs State Reservation....	99,000.00
<hr/>	
Total.....	\$44,899,000.00
<hr/>	

In addition to the above bonds authorized but not issued there will be submitted to the people of the State at the next election for their consideration a proposition to issue not exceeding \$27,000,000.00 of bonds for the purpose of continuing the improvement of the Erie, Champlain and Oswego Canals.

Attached hereto find statements showing in detail the information requested.

Respectfully submitted,  
EUGENE M. TRAVIS,  
*Comptroller.*

## STATE OF NEW YORK — COMPTROLLER'S OFFICE

## EXHIBIT "A"

CONDENSED BALANCE SHEET OF THE SINKING FUNDS OF THE  
STATE OF NEW YORK AS OF APRIL 30, 1915

(Details shown in Exhibit "B" following)

## RESOURCES

*Canal Debt Sinking Funds*

Investments ..... \$20,639,878 29

Cash ..... 8,242,099 70

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\$28,881,977 99*Highway Debt Sinking Funds*

Investments ..... \$7,549,490 00

Contributions of 1914 due  
from General Fund..... 3,367,281 50

Cash ..... 526,548 84

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11,443,320 34*Palisades Interstate Park Debt Sinking Fund*

Investments ..... \$97,300 00

Contributions of 1914 due  
from General Fund..... 142,328 48

Cash ..... 3,424 51

---

243,052 99

---

Total Resources.....\$40,568,351 32

---

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## LIABILITIES AND SURPLUS

*Reserve for Interest Payable*

Canal Debt..... \$3,328,750 00

Highway Debt..... 1,360,000 00

Palisades Interstate Park Debt 50,000 00

---

\$4,738,750 00

*Reserve for Principal*

Calculated balances April 30, 1915, which, with a fixed annual contribution payable at the end of each year and proportion with interest at 3 per cent. compounded annually during the term of each bond issue, would be sufficient to retire the principal of the bonds outstanding at their maturity for:

Canal Debt.....	\$4,881,377 31	
Highway Debt .....	1,946,635 53	
Palisades Interstate Park Debt	96,882 43	
		<hr/>
		\$6,924,895 27
		<hr/>
Total Reserve.....	\$11,663,645 27	

*Surplus*

(Excess resources over reserves as above)

Canal Debt Sinking Funds...	\$20,671,850 68	
Highway Debt Sinking Funds	8,136,684 81	
Palisades Interstate Park Debt		
Sinking Funds.....	96,170 56	
		<hr/>
		28,904,706 05
		<hr/>
Total Liabilities and Surplus.....	\$40,568,351 32	<hr/>



**EXHIBIT***Statement of Bonded State Debt, Sinking Funds, Reserves or Resources over Reserves or Calculat*

CHARACTER OF DEBT	Date of issue	Term of years	Maturity	Outstanding bonds
<b>Canal Debt</b>				
Sinking Fund No. 2 8% bonds Erie, Champlain and Oswego canals, chapter 147, Laws 1903 .....	Jan. 1, 1905	18	Jan. 1, 1923	<del>\$5,000,000 00</del>
Sinking Fund No. 3 8% bonds Erie, Champlain and Oswego canals, chapter 147, Laws 1903, chapter 302, Laws 1906, chapter 241, Laws 1909 .....	Jan. 1, 1906 Jan. 1, 1907 Jan. 1, 1908 Jan. 1, 1909	50 50 50 50	Jan. 1, 1956 Jan. 1, 1957 Jan. 1, 1958 Jan. 1, 1959	\$1,000,000 00 5,000,000 00 5,000,000 00 10,000,000 00 <u>\$21,000,000 00</u>
Sinking Fund No. 4 4% bonds Erie, Champlain and Oswego canals, chapter 147, Laws 1903, chapter 66, Laws 1910 ..	July 1, 1910 Jan. 1, 1911 July 1, 1911 Jan. 1, 1912	50 50 50 50	July 1, 1960 Jan. 1, 1961 July 1, 1961 Jan. 1, 1962	\$10,000,000 00 10,000,000 00 10,000,000 00 10,000,000 00 <u>\$40,000,000 00</u>
Sinking Fund No. 5 4% bonds Cayuga and Seneca canals, chapter 391, Laws 1909, chapter 139, Laws 1910 .....	July 1, 1910 Jan. 1, 1912	50 50	July 1, 1960 Jan. 1, 1962	\$1,000,000 00 2,000,000 00 <u>\$3,000,000 00</u>
Sinking Fund No. 6 4% bonds, Barge canal terminals	Jan. 1, 1912	30	Jan. 1, 1942	\$5,000,000 00
Champlain and Oswego canals, chapter 147, Laws 1903, chapter 66, Laws 1910.	Jan. 1, 1914	50	Jan. 1, 1964	30,000,000 00
Sinking Fund No. 8 4½% bonds Cayuga and Seneca canals, chapter 391, Laws 1909, chapter 139, Laws 1910, chapter 787, Laws 1913, chapter 2, Laws 1915	Jan. 1, 1915	50	Jan. 1, 1965	4,000,000 00
Sinking Fund No. 9 4½% bonds Barge canal terminals, chapter 746, Laws 1911, chapter 787, Laws 1913, chapter 2, Laws 1915	Jan. 1, 1915	30	Jan. 1, 1945	5,000,000 00
Sinking Fund No. 10 4½% bonds Erie, Champlain and Oswego canals, chapter 147, Laws 1903, chapter 66, Laws 1910, chapter 787, Laws 1913, chapter 2, Laws 1915	Jan. 1, 1915	50	Jan. 1, 1965	8,000,000 00

“B”

*Calculated Balances and Surplus or Excess of Sinking Fund  
ed Balances as of April 30, 1915*

SINKING FUNDS				Reserve or calculated balances available for principal as of April 30, 1915	Excess or surplus of adjusted balances over reserves or calculated balances April 30, 1915
Cash and investments in funds April 30, 1915	Add Contributions due from General Fund from appro- priations of 1914	Deduct Reserve for interest payable from funds	Balance after adjustments available for principal of debt		
\$1,991,175 04	.....	\$30,000 00 60,000 00	\$1,901,175 04	\$1,017,479 37	\$883,695 67
.....	.....	\$45,000 00		\$93,921 37	.....
.....	.....	225,000 00		412,892 58	.....
.....	.....	225,000 00		330,836 19	.....
.....	.....	450,000 00		608,743 03	.....
16,641,376 28	.....	\$945,000 00	15,696,376 28	\$1,446,393 17	14,249,983 11
.....	.....	\$200,000 00		\$454,051 07	
.....	.....	200,000 00		404,160 06	
.....	.....	200,000 00		354,753 45	
.....	.....	200,000 00		306,315 60	
4,525,286 62	.....	\$800,000 00	3,725,286 62	\$1,519,280 18	2,206,006 44
.....	.....	\$20,000 00	.....	\$45,405 11	
.....	.....	40,000 00	.....	61,263 12	
349,925 95	.....	\$60,000 00	289,925 95	\$106,668 23	183,257 72
461,720 45	.....	\$100,000 00	361,720 45	\$363,122 67	*1,402,22
3,782,053 91	.....	675,000 00	3,107,053 91	357,279 60	2,749,774 31
262,612 65	.....	170,000 00	92,612 65	11,820 66	80,791 99
551,085 97	.....	318,750 00	232,335 97	35,032 10	197,303 87
316,081 12	.....	170,000 00	146,081 12	23,641 33	122,439 79

\* Deficit

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• **Annually**

(Continued)

*Calculated Balances and Surplus or Excess of Sinking Fund  
ed Balances as of April 30, 1915.*

SINKING FUNDS					
Cash and investments in funds April 30, 1915	Add Contributions due from General Fund from appro- priations of 1914	Deduct Reserve for interest payable from funds	Balance after adjustments available for principal of debt	Reserve or calculated balances available for principal as of April 30, 1915	Excess or surplus of adjusted balances over reserves or calculated balances April 30, 1915
\$160 00 500 00	..... .....	..... .....	\$160 00 500 00	\$160 00 500 00	..... .....
\$28,881,977 99	.....	\$3,328,750 00	\$25,553,227 99	\$4,881,377 31	\$20,671,850 68
709,702 64	\$62,624 53	\$15,000 00	\$757,327 17	\$83,514 39	\$673,812 78
.....	.....	\$100,000 00	.....	\$348,743 96	.....
.....	.....	100,000 00	.....	322,014 64	.....
.....	.....	100,000 00	.....	243,905 32	.....
.....	.....	200,000 00	.....	387,529 73	.....
.....	.....	160,000 00	.....	232,135 72	.....
5,835,501 51	1,980,000 00	\$660,000 00	6,655,501 51	\$1,534,329 37	5,121,172 14
1,255,451 00	1,040,000 00	\$360,000 00	1,935,451 00	\$239,250 24	1,696,200 76
416,223 57	284,656 97	112,500 00	588,380 54	74,765 70	513,614 84
359,160 12	.....	212,500 00	146,660 12	14,775 83	131,884 29
\$8,076,038 84	\$3,367,281 50	\$1,360,000 00	\$10,883,320 34	\$1,946,635 53	\$8,136,684 81
\$100,724 51	\$142,328 48	\$50,000 00	\$193,052 99	\$96,882 43	\$96,170 56
.....	.....	.....	.....	.....	.....
\$37,058,741 34	\$3,509,609 98	\$4,738,750 00	\$35,829,601 32	\$6,924,895 27	\$28,904,706 05



STATE OF NEW YORK

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IN CONVENTION

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DOCUMENT

No. 19

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OPINION OF THE COURT OF APPEALS — WORKMEN'S  
COMPENSATION LAW

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STATE OF NEW YORK, COURT OF APPEALS

In the Matter of the Claim of MARIE JENSEN,  
*Claimant-Respondent,*  
for Compensation under the Workmen's  
Compensation Law

*against*

SOUTHERN PACIFIC COMPANY, Employer and  
Self-Insurer,

*Appellant.*

(Decided July 13, 1915)

APPEAL from an order of the Appellate Division affirming an  
award of the Workmen's Compensation Commission.

*Norman B. Beecher*, for Appellant.

*Egburt E. Woodbury*, Attorney-General (E. C. Aiken of Coun-  
sel), for Respondent.

*Visscher, Whalen & Austin* filed brief for New York Central  
Railroad Company, as *amici curiae*.

**MILLER, J.**—The claimant's husband was killed on August 15, 1914, while employed in unloading the steamship *El Oriente* which was berthed alongside a pier in the Hudson river. When the accident occurred he was moving an electric truck upon a gangway connecting the vessel with the pier. The appellant, a corporation of the state of Kentucky, is a common carrier by railroad. It also owned and operated said steamship, which plied between New York and Galveston, Texas. It does not appear that the steamship was in any way operated in connection with a line of railroad and in its report of the accident the appellant stated its business to be "transportation by steamships engaged solely in interstate commerce." We are required on this appeal, first, to construe the Workmen's Compensation Law (chap. 67 of the Consolidated Laws) in so far as it relates to this case and, second, to determine its constitutional validity. The scheme of the statute is essentially and fundamentally one by the creation of a state fund to insure the payment of a prescribed compensation based on earnings for disability or death from accidental injuries sustained by employees engaged in certain enumerated hazardous employments. The State fund is created from premiums paid by employers based on the pay-roll, the number of employees and the hazards of the employment. The employer has the option of insuring with any stock corporation or mutual association authorized to transact such business, or of furnishing satisfactory proof to the Commission of his own financial ability to pay. If he does neither he is liable to a penalty equal to the pro rata premium payable to the State fund during the period of his noncompliance and is subject to a suit for damages by the injured employee, or his legal representative in case of death, in which he is deprived of the defences of contributory negligence, assumed risk and negligence of a fellow servant. By insuring in the State fund, or by himself or his insurance carrier paying the prescribed compensation, the employer is relieved from further liability for personal injuries or death sustained by employees. Compensation is to be made without regard to fault as a cause of the injury, except where it is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or another or results solely from his intoxication while on duty. Compensation is not based on the rule of damages applied in negligence





It is claimed that loading and unloading are included in "operation" and that, therefore, the case falls within Group 8, which excepts vessels of other states or countries used in interstate or foreign commerce, but the specific enumeration of longshore work in Group 10 excludes such work from the other group.

It is next claimed that the statute was not intended to apply to employment in interstate or foreign commerce and that in case of doubt that construction should be adopted, for otherwise it would offend against the commerce clause of the Federal Constitution by imposing a burden upon such commerce. The latter claim will be noticed first. The statute does not purport directly to regulate or impose a burden upon commerce, but merely undertakes to regulate the relations between employers and employees in this State. Such regulation may, and, no doubt, does, indirectly affect commerce, but to the extent that it may affect interstate or foreign commerce it is plainly within the jurisdiction of the State, until congress by entering the field excludes State action. (*Sherlock v. Alling*, 93 U. S. 99; *Morgan's R. R. and Steamship Co. v. Louisiana*, 118 U. S. 455; *Reid v. Colorado*, 187 U. S. 137; *Simpson v. Shepard*, 230 U. S. 352; *Erie R. Co. v. Williams*, 233 U. S. 685.)

Literally construed, Section 114 makes the statute apply only to intrastate work, either done by itself or in connection with, but clearly separable and distinguishable from, interstate or foreign commerce. But, though the section is awkwardly phrased, it is manifest that a broader application was intended, else the clause "for whom a rule of liability or method of compensation has been or may be established by the congress of the United States" is meaningless. The legislature evidently intended to regulate, as far as it had the power, all employments within the State of the kinds enumerated. The earlier sections are in terms of general application, and Section 114, which is headed "Interstate Commerce", is one of limitation, not of definition. Its obvious purpose was to guard against a construction violative of the Constitution of the United States, and so it provided that the act should apply to interstate or foreign commerce, "for whom a rule of liability or method of compensation has been or may be established by the congress of the United States", only to the extent that in-



that the Workmen's Compensation Act applied to it, and that the latter act is not violative of the Federal Constitution for attempting directly to regulate or impose a tax or burden on interstate or foreign commerce. We now come to perhaps the most important question in the case. Does the act violate the Fourteenth Amendment to the Constitution of the United States for taking property without due process of law?

Much reliance is placed on the decision of this court in *Ives v. South Buffalo Ry. Co.* (201 N. Y. 271.) In that case Judge Werner, referring to the appeal on economic and sociologic grounds and speaking for the court said: "We have already admitted the strength of this appeal to a recognized and widely prevalent sentiment, but we think it is an appeal which must be made to the people and not to the courts." That decision was made in March, 1911. Following that suggestion, the legislature provided in the orderly way prescribed by the Constitution for the submission to the people of a proposed constitutional amendment and in due time that amendment was adopted on November 4th, 1913, and became Section 19 of Article 1 of our State Constitution. It is unnecessary to set that amendment forth *in extenso*, but it suffices to say that so far as the due process clause or any provision of our State Constitution is concerned the amendment amply sustains the act. However, it is urged that the reasons, which constrained the court to declare the act involved in the *Ives* case unconstitutional, are equally cogent when applied to the Fourteenth Amendment. In the first place it is to be observed that the two acts are essentially and fundamentally different. That involved in the *Ives* case made the employer liable in a suit for damages though without even imputable fault and regardless of the fault of the injured employee — short of serious and willful misconduct. This act protects both employer and employee, the former from wasteful suits and extravagant verdicts, the latter from the expense, uncertainties and delays of litigation in all cases and from the certainty of defeat if unable to establish a case of actionable negligence. Both acts are said to have been based on the proposition that the risk of accidental injuries in a hazardous employment should be borne by the business and that loss should not fall on the injured employee and



benefiting only indirectly from the supposed benefit to commerce and the greater stability of banking. In this case the mutual benefits are direct. Granted, that employers are compelled to insure, and that there is in that sense a taking. They insure themselves and their employees from loss, not others. The payment of the required premiums exempts them from further liability. The theoretical taking no doubt disappears in practical experience. As a matter of fact every industrial concern, except the very large ones who insure themselves, have for some time been forced by conditions, not by law, to carry accident indemnity insurance. A relatively small part of the sums thus paid actually reached injured workmen or their dependents. With the economic saving of the present scheme, insurance in the long run should certainly be as cheap as under the old wasteful plan, and the families of all injured workmen, not a part only, will receive some compensation for the loss of earning power of the wage earner. We should consider practical experience as well as theory in deciding whether a given plan in fact constitutes a taking of property in violation of the constitution. A compulsory scheme of insurance to secure injured workmen in hazardous employments and their dependents from becoming objects of charity certainly promotes the public welfare as directly as does an insurance of bank depositors from loss.

But for the matter now to be considered we need not look farther for a case controlling upon us and in principle decisive of this. Whilst the *Noble State Bank* case was referred to in the *Ives* case, it was not controlling for the reason that the State Constitution was involved and it was not in point as an authority because of the essential differences in the act then before the court, already pointed out.

A point was made on oral argument that the act was unconstitutional for depriving an employee injured by negligence imputable to the employer of a right of action for the wrong. Of course, the employer can not be heard to urge the grievance of the employee (*Jeffrey Mfg. Co. v. Blagg, supra*), but exemption from further liability upon paying the required premium into the State fund is an essential element of the scheme, and if the act be unconstitutional as to the employee, the employer would be deprived of that exemption and thus would be directly affected



extension of that doctrine for the legislature to provide that the employee should assume the risk of all accidental injuries, and if that can be done, it is certainly competent for the legislature to provide by the creation of an insurance fund for a limited compensation to the employee for all accidental injuries, regardless of whether there was a cause of action for them at common law.

This subject should be viewed in the light of modern conditions, not those under which the common law doctrines were developed. With the change in industrial conditions, an opinion has gradually developed, which almost universally favors a more just and economical system of providing compensation for accidental injuries to employees as a substitute for wasteful and protracted damage suits, usually unjust in their results either to the employer or the employee, and sometimes to both. Surely it is competent for the State in the promotion of the general welfare to require both employer and employee to yield something toward the establishment of a principle and plan of compensation for their mutual protection and advantage. Any plan devised by the wit of man may in exceptional cases work unjustly, but the act is to be judged by its general plan and scope and the general good to be promoted by it. Fortunately the courts have not attempted to define the limits of the police power. Its elasticity makes progress possible under a written constitution guaranteeing individual rights. The question is often one of degree. The act now before us seems to be fundamentally fair to both employer and employee. Of course, I do not speak of details, which may or may not be open to criticism, but which, granting the validity of the underlying principle, are plainly within the province of the legislature. It is not open to the objections, found to be fatal to the act considered in the *Ives* case. It is plainly justified by the amendment to our own State Constitution and the decisions of the United States Supreme Court, notably in the *Noble State Bank* case, make it reasonably certain that it will be found by that court not to be violative of the Constitution of the United States.

The order of the Appellate Division should be affirmed with costs.

WILLARD BARTLETT, Ch. J., COLLIN, CUDDEBACK, CARDOZO, and SEABURY, J.J., concur. WERNER, J., not sitting.

Order affirmed.









3. There are two lines of reasoning with respect to salaries of those in the State service. One is that the larger salary will attract to such service a better and more efficient class of public servants; the other that such larger compensation will draw to it men who are willing to become professional politicians, with a chief view of drawing the salary regardless of the character of the service rendered.

We believe that the best service to the State in the Legislature is not rendered by the man devoting his whole time to political life and who is lured by the salary, but rather by those who, busy in their own affairs, are yet willing to sacrifice of their time in serving the public in places of honor, and who find much of their compensation for such service in the confidence and regard of the constituency electing them and in the satisfaction that comes from the consciousness of duty well performed.

It must be borne in mind that the active duties of a member of the Legislature are not continuous, do not usually engage more than about a third of the year and that they are so distributed as to leave reasonable time for a man diligent in business to care somewhat for his private affairs, while still well serving the public.

For these reasons, believing that the present compensation of \$1,500, a year for each legislator, while not large, is still sufficient to indemnify the average Senator or member for his time rendered and expense incurred in the public service, we present this minority report for the consideration of the Convention.

July 14, 1915.

(Signed)

EDGAR T. BRACKETT,  
LEMUEL E. QUIGG,  
THOMAS A. KIRBY,  
LEWIS H. FORD.



for no longer period than two consecutive legislative days, except by special consent of the Convention.

5. When the Convention shall be ready to go into Committee of the Whole, he shall name a chairman to preside therein, subject to right of the committee to elect its own chairman.

6. He shall certify the passage of all amendments by the Convention, with the date thereof.

7. He shall designate the persons who shall act as reporters for the public press, not exceeding thirty in number; but no reporter shall be admitted to the floor who is not an authorized representative of a daily paper. Such reporters, so appointed, shall be entitled to such seats as the President shall designate, and shall have the right to pass to and fro from such seats in entering or leaving the Assembly Chamber. No reporter shall appear before any of the committees in advocacy of, or in opposition to, anything under consideration before such committees. A violation of this rule will be sufficient cause for the removal of such reporter. Removal for this cause shall be vested in the President.

8. He shall not be required to vote in ordinary proceedings, except where his vote would be decisive. In case of a tie vote the question shall be lost. He shall have general control, except as provided by rule or law, of the Assembly Chamber and of the corridors and passages in that part of the Capitol assigned to the use of the Convention. In case of any disturbance or disorderly conduct in the galleries, corridors or passages, he shall have the power to order the same to be cleared, and may cause any person guilty of such disturbance or disorderly conduct to be brought before the bar of the Convention. In all such cases the members present may take such measures as they shall deem necessary to prevent a repetition of such misconduct, either by the infliction of censure or pecuniary penalty, as they may deem best, on the parties thus offending.

9. He shall also be *ex-officio* member and chairman of the Committee on Rules.

10. In the absence of the President, or his inability to preside, his duties shall devolve upon the First Vice-President, or, if he also be absent, upon the Second Vice-President.

The President and Vice-Presidents shall be consulting members, without vote, in the several committees to which they shall not have been specifically appointed.

## CHAPTER II

### Order of Business

Rule 3. The first business of each day's session shall be the reading of the Journal of the preceding day, and the correction of any errors that may be found to exist therein. Immediately thereafter, except on days and at times set apart for the consideration of special orders, the order of business shall be as follows:

1. Presentation of memorials. Under which head shall be included petitions, remonstrances and communications from individuals, and from public bodies.

2. Communications from the Governor and other State officers. Under this head shall be embraced also communications from public officers and from corporations in response to calls for information.

3. Notices, motions and resolutions, to be called for by districts, numerically.

4. Propositions for constitutional amendment, by districts, in numerical order.

5. Reports of standing committees in the order stated in Rule 15.

6. Reports of select committees.

7. Third reading of proposed constitutional amendments.

8. Unfinished business of general orders.

9. Special orders.

10. General orders.

Reports from the Committee on Revision and Engrossment may be received under any order of business.

## CHAPTER III

### Rights and Duties of Members

Rule 4. Petitions, memorials, remonstrances and any other papers addressed to the Convention shall be presented by the President, or by any member in his place, read by their titles, unless otherwise ordered, and referred to the proper committee.

Rule 5. Every member presenting a paper shall indorse the same; if a petition, memorial, remonstrance or communication in

answer to a call for information, with a concise statement of its subject, and his name; if a notice or resolution, with his name; if a proposition for constitutional amendment, with a statement of its title and his name; if a proposition of any other kind for the consideration of the Convention, with a statement of its subject, the proposer's name, and the reference, if any, desired. A report of a committee must be indorsed with a statement of such report, together with the name of the committee making the same, and shall be signed by the chairman. A report by a minority of any committee shall be signed by the members rendering the same.

Rule 6. Every member who shall be within the bar of the Convention, when a question is stated from the chair, shall vote thereon unless he be excused by the Convention, or unless he be directly interested in the question; nor shall the roll of absentees be more than once called. The bar of the Convention shall be deemed to include the body of the Convention chamber.

Rule 7. Any member requesting to be excused from voting may make, when his name is called, a brief statement of the reasons for making such request, not exceeding three minutes in time, and the Convention, without debate, shall decide if it will grant such request; or any member may explain his vote, for not exceeding three minutes; but nothing in this rule contained shall abridge the right of any member to record his vote on any question previous to the announcement of the result.

## CHAPTER IV

### Order and Decorum

Rule 8. No member rising to debate, to give a notice, make a motion, or present a paper of any kind, shall proceed until he shall have addressed the President and been recognized by him as entitled to the floor. While the President is putting a question or a count is being had, no member shall speak or leave his place; and while a member is speaking no member shall entertain any private discourse or pass between him and the Chair.

Rule 9. When a motion to adjourn, or for recess, shall be carried, no member or officer shall leave his place till the adjournment or recess shall be declared by the President.





3. On the powers, limitations and duties of the Legislature, except as to matters otherwise referred, to consist of seventeen members.

4. On the right of suffrage and the qualifications to hold office, to consist of seventeen members.

5. On the Governor and other State officers, their election or appointment, tenure of office, compensation, powers and duties, except as otherwise referred, to consist of seventeen members.

6. On the judiciary, to consist of seventeen members.

7. On the State finances, revenues, expenditures, and restrictions on the powers of the Legislature in respect thereto, and to public indebtedness, to consist of seventeen members.

8. On cities, their organization, government and powers, to consist of seventeen members.

9. On canals, to consist of eleven members.

10. On public utilities, to consist of seventeen members.

11. On counties, towns and villages, their organization, government and powers, to consist of seventeen members.

12. On county, town and village officers, other than judicial, their election or appointment, tenure of office, compensation, powers and duties, to consist of seventeen members.

13. On State prisons and penitentiaries, and the prevention and punishment of crime, to consist of eleven members.

14. On corporations and institutions, not otherwise herein specified, to consist of seventeen members.

15. On currency, banking and insurance, to consist of eleven members.

16. On the militia and military affairs, to consist of seven members.

17. On education and the funds relating thereto, to consist of seventeen members.

18. On charities and charitable institutions, to consist of seventeen members.

19. On industrial interests and relations, except those already referred, to consist of seventeen members.

20. On the conservation of the natural resources of the State, to consist of seventeen members.



Rule 19. It shall be the duty of the Committee on Contingent Expenses to inquire into the expenditures of the Convention, and whether the same are being or have been made in conformity to law and the orders of the Convention, and whether proper vouchers exist for the same, and whether the funds provided for the purpose are economically applied, and to report, from time to time, such regulations as may conduce to economy and secure the faithful disbursement of the money appropriated by law.

## CHAPTER VII

### General Orders and Special Orders

Rule 20. The matters referred to the Committee of the Whole Convention shall constitute the general orders, and their titles shall be recorded in a calendar kept for that purpose by the Secretary, in the order in which they shall be severally referred.

Rule 21. The business of the general orders shall be taken up in the following manner, viz.: The Secretary shall announce the title of each proposed amendment or other matter, as it shall be reached in its order, whereupon it shall be taken up on the call of any member, without the putting of a question therefor, but if not so moved, it shall lose its precedence for the day. And whenever three proposed amendments or other matters have been thus moved the Convention shall go into Committee of the Whole upon them without further order.

Rule 22. Tuesday and Thursday of each week shall be set apart especially for the consideration of the general orders; but they may be considered on any other day when reached in their order.

Rule 23. Each member shall be furnished daily with a printed list of the general orders, which shall be kept on his files by the Sergeant-at-Arms, in the same manner as other printed documents.

Rule 24. Any matter may be made a special order for any particular day, by the acceptance of the report of the Committee on Rules, or by a two-thirds vote, or by unanimous consent.

## CHAPTER VIII

### Committee of the Whole

Rule 25. Any matter may be committed to the Committee of the Whole upon the report of a standing or select committee, or



1. Under the order of introduction of propositions for constitutional amendment by districts, in numerical order.

2. By report of a committee.

Rule 31. The title of each proposition for constitutional amendment introduced shall state concisely its subject-matter. Matter which it is proposed to strike out shall be in brackets, and new matter shall be underscored and when printed shall be in italics. All proposed amendments shall be presented in duplicate.

Rule 32. All propositions for constitutional amendment, after their second reading, which shall be by title, shall be referred to a standing or select committee, to consider and report thereon, and shall be immediately printed and placed on the files of each member. All proposed constitutional amendments reported favorably shall be committed to the Committee of the Whole and immediately printed unless a different order be made not inconsistent with Rule 34. When a committee has reported that no amendment should be made to the provisions of the existing Constitution relating to any specified subject, and such report is agreed to, all propositions for constitutional amendment relating to that subject which have been referred to that committee shall be considered as rejected. All constitutional amendments proposed by a minority report from any committee shall be printed and placed on the files of the members of the Convention.

Rule 33. Proposed constitutional amendments reported by the Committee of the Whole shall be subject to debate before the question to agree with the committee on their report is put.

Rule 34. No proposed constitutional amendment shall be ordered to a third reading until it shall have been considered in Committee of the Whole.

Rule 35. No proposed constitutional amendment shall be put upon third reading until it shall have been reported by the Committee on Revision and Engrossment as correctly revised and engrossed, unless by unanimous consent. Nor shall any proposed constitutional amendment be read the third time, unless it shall have been once printed.

Rule 36. Every proposed constitutional amendment shall receive three separate readings, previous to its final passage, and the third reading shall be on a day subsequent to that on which



## CHAPTER X

## Motions and Their Precedence

Rule 44. When a question is under consideration, the following motions only shall be received; which motions shall have precedence in the order stated, viz.:

Motions to, or for:

- |                                                         |   |                                    |
|---------------------------------------------------------|---|------------------------------------|
| 1. Adjourn for the day.                                 | } | Not amendable or debatable.        |
| 2. Recess.                                              |   |                                    |
| 3. Call of the Convention.                              |   |                                    |
| 4. Previous question.                                   |   |                                    |
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Rule 45. Every motion or resolution shall be stated by the President or read by the Secretary before debate, and again, if requested by any member, immediately before putting the question; and every motion, except those specified in subdivisions 1 to 11, inclusive, of Rule 44, shall be reduced to writing if the President or any member request it.

Rule 46. After a motion shall be stated by the President, it shall be deemed in the possession of the Convention, but may be withdrawn at any time before it shall be decided or amended.

Rule 47. The motion to adjourn, to take a recess, and to adjourn for a longer period than one day, shall always be in order; but the latter motion shall not preclude debate.

Rule 48. A motion to reconsider any vote must be made on the same day on which the vote proposed to be reconsidered was taken, or on the legislative day next succeeding, and by a member who voted in the majority, except to reconsider a vote on the final passage of a proposed constitutional amendment, which shall be privileged to any member. Such motion may be made under any





standing Committee on Contingent  
thereon before final action by the Con

## CHAPTER I

### The Previous Question

Rule 53. The "previous question"  
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the proposed amend  
r matter under consi  
ments thereto are pending, the questi  
such amendments in their order, and when adopted in Committee  
of the Whole, and not acted on in the Convention, the question  
shall be taken upon such amendments in like order.

## CHAPTER XIII

### The Convention Chamber and Privileges of Admission to the Floor

Rule 54. The following classes of persons, besides officers and members of the Convention, shall be entitled to admission to the floor of the Convention during the session thereof, viz.:

1. Governor, Lieutenant-Governor, and ex-Governors of the State.
2. Judges of the Court of Appeals and of the Supreme Court.
3. Members of former Constitutional Conventions.
4. The members of the Senate and Assembly and ex-Speakers.
5. The State officers, deputies and commissioners.
6. The Regents of the University.
7. United States Senators and Congressmen.
8. The Capitol Commissioners.
9. Persons in the exercise of an official duty directly connected with the business of the Convention.
10. The reporters for the press, as provided by subdivision 7 of Rule 2.



ject, the Committee on Rules shall report a rule limiting the time for debate; and upon such report no member shall speak more than once, nor more than five minutes. Such report shall stand as the time limited for debate on the subject-matter referred to in such rule, and the previous question or other motion to close debate shall not be in order until the expiration of the time so allotted, or the debate has been closed; the time thus allotted for debate shall be equally divided between those in favor and those opposed to the subject-matter under consideration. All questions or motions authorized by this rule shall be decided at once without delay or debate, except as herein expressly allowed.

Rule 57. The yeas and nays may be taken on any question whenever so required by any fifteen members (unless a division by yeas and nays be already pending), and when so taken shall be entered on the Journal.

Rule 58. When the Convention shall be equally divided on any question, including the President's vote, the question shall be deemed to be lost.

Rule 59. In considering the report of the Committee on Revision and Engrossment, each article shall be open to amendment germane to such changes as may have been reported by the committee, without previous notice, but no one shall speak more than five minutes, or more than once, on any proposition to amend.

Rule 60. When a blank is to be filled and different sums or times shall be proposed, the question shall be first taken on the highest sum and the longest time.

Rule 61. A majority of the Convention shall constitute a quorum. In all cases of the absence of members during the sessions, the members present shall take such measures as they shall deem necessary to secure the presence of absentees, and may inflict such censure or pecuniary penalty as they may deem just on those who, on being called on for that purpose, shall not render sufficient excuse for their absence. No constitutional amendment shall be adopted unless by the assent of a majority of all the members elected to the Convention.

Rule 62. For the purpose of securing the attendance of members, a call of the Convention may be made, but such call shall not be in order after the main question has been ordered, nor after



vention, and at least five days before final adjournment, the Committee on Revision and Engrossment shall be instructed to accurately enroll and engross the present State Constitution, with all amendments thereto properly inserted, or the proposed new Constitution; and the same shall be reported by said committee to the Convention, read through therein, and submitted to a final vote prior to its final adjournment. When an article of the Constitution is amended, or a new article substituted or added, such amended article, or new article, shall be enrolled and engrossed entire in its proper place in the Constitution.

## CHAPTER XV

### Miscellaneous Provisions

Rule 68. The Sergeant-at-Arms shall, under the direction of the Committee on Printing, receive from the printer all matter printed for the use of the Convention, and keep a record of the time of the reception of each document, and the number of copies received, and cause a copy of each to be placed on the desk of each member immediately after their reception by him. Subject to the direction of the President, he shall enforce the rules of the Convention.

Rule 69. Separate files of the daily Journal, reports of the committees and of all documents ordered to be printed shall be prepared and kept by the Sergeant-at-Arms, and one copy shall be placed upon the desk of each member of the Convention and of the Secretary.

Rule 70. There shall be printed as of course and without any special order 1,500 copies of the journal, 500 copies of the calendar, 2,500 copies of each proposed constitutional amendment, and 3,500 copies of each report and minority report of a committee on the subject of constitutional revision or amendment in which are set forth the reasons for their recommendation, to be printed as documents; 500 copies of each other document; and 3,500 copies of the record of the proceedings of the convention.

Rule 71. The printed copies provided for in Rule 70 shall be disposed of as follows:

There shall be reserved for binding 1,200 copies of the journal, 1,200 copies of the reports, 1,200 copies of the record of the proceedings.



Rule 72. The assistant sergeant-at-arms and doorkeepers shall be under the supervision of the Sergeant-at-Arms, who shall require their attendance and the performance of their duties. The committee clerks and stenographers shall be under the supervision of the chairmen of the several committees to which they are respectively assigned, who shall require their attendance and the performance of their duties. The general stenographers and all assistants to the stenographer shall be under the supervision of the stenographer of the Convention, who shall require their attendance and the performance of their duties. With the exception of the Secretary and assistant secretaries, the President's clerk and stenographer, the Secretary's stenographer and the secretaries to the Vice-Presidents, all other officers, assistants and employees of the Convention receiving compensation shall be under the supervision of an assistant secretary who shall be designated by the Secretary for that purpose and who shall require the attendance and performance of duty by such officers, assistants and employees.

To enable the President and Secretary of the Convention to sign the necessary vouchers for payment, pursuant to chapter 76 of the Laws of 1915, the several supervising authorities hereinbefore mentioned shall severally certify from time to time to the President and Secretary as to the attendance and performance of duty by the officers, assistants and employees respectively under their supervision.

Rule 73. After the eleventh day of June, nineteen hundred and fifteen, the call for proposed constitutional amendments by districts under Rule 3, shall be discontinued and no proposed constitutional amendment shall be introduced except on the report or recommendation of a standing or select committee.

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Slaughter House Cases as early as 1872, and although the court divided in respect to monopoly and special privilege, there was general agreement to the effect that the States have reserve power to enact police laws in all cases where it is necessary to protect the general interests of the community.

Inasmuch as citizens generally have failed to understand the distinction between the written and the actual construction and application of the Constitution and the recognition by the courts of this power of the State, it has seemed to this committee that it is of great importance in so fundamental a matter that the written Constitution should clearly express the precise status of the law and leave no question for discussion or misunderstanding as to the power of the limitations of the Legislature or of the courts.

The provision to the effect that the Legislature shall not pass a bill under the police power, etc., unless there is reasonable necessity for the exercise of such power to protect the general interest of the community which is the phraseology of the Federal courts, or to protect the health, morals, or the general welfare of the State, which is the phraseology of the State courts, will clarify the entire situation, remove all doubts and will be of particular benefit to the community in all important respects.

On the one hand it will relieve the Legislature of the charge of attempting to do that which it has not the power to do, and on the other hand will relieve the courts from the charge of attempting to deprive the Legislature of power.

This adopts into the written Constitution the principle of the "rule of reason", which has prevailed in the Federal courts from early times and which was accentuated a short time ago under the decisions of the Standard Oil and Tobacco cases.

The same rule of reason in the construction, application and determination of the validity of a statute has long prevailed in this State and is formally written into the law in the Public Utilities Act of 1907, in which by Section 49, it was held that the orders of the Public Service Commission should be just and reasonable, thus subjecting their review on the ground of justice and reasonableness. This was also embodied in the State Labor Law of 1909 and was recognized and repeated with greater emphasis in the amendment contained in the Industrial Law of 1915.







to make this appropriation, the duty is imposed upon the controller, as the chief fiscal officer of the State, to take it in question from the next general revenues of the State and apply it to the funds in question. The taxation to be employed is thus left to the discretion of the Legislature but if that body fails to act, what is essential to the current requirements of the State government by the general revenues in favor of the bondholders. The method of enforcement is also made applicable to the payment of the instalments of principal and the interest on all bonds of the State. Your Committee feels that in this completion of the sinking fund for the old debt and the payment of the recurring instalments of the new debt is made as simple and automatic as possible. In order to give to the persons most interested in the enforcement of the debt a right to put in motion the machinery for its collection, an express right to mandamus against the Comptroller is given to the bondholder. This remedy is placed in the Constitution because, under existing law, it would otherwise be doubtful whether such a writ would lie against a State officer.

Three of the existing sinking funds are so near completion that no further contributions to them are required. The regular accumulations upon the amounts already contributed are much more than enough to amortize the principal of the debt by the time of its maturity and leave in addition a large annual income unnecessary for that purpose. Your Committee recommends that this excess income be applied to the interest on the debt. Your Committee believes that such application is within the original contract with the bondholders contemplated by the terms of the present Constitution, and that, so far as those funds are concerned, the good faith of the State will be literally maintained and at the same time a certain measure of relief will be afforded to the present taxpayers.

#### AUTHORIZATION TO REFUND THE OUTSTANDING SINKING FUND DEBT WITH SERIAL BONDS

Your Committee feels that its recommendations would be incomplete unless authority were granted to replace the present straight





During the past year, owing to the exhaustion of its surplus and the exigencies created by the European War, the State found itself obliged to borrow moneys for the current expenditures of the government in anticipation of the collection of its taxes. Owing to the fact that the amount named in section 2 was thus exhausted it was obliged to fall back upon its implied power to contract such an indebtedness. Your Committee finds that considerable embarrassment was caused thereby and that, although the Appellate Division of the Third Department has sustained the State's contention that it had such an implied power considerable difficulty was found in the negotiations of its securities for that purpose.

Your Committee thinks that this situation should be put beyond doubt, and has, therefore, recommended an amendment of section 2 which limits the debts to be contracted thereunder to debts for the purposes and within the amounts of appropriations already made, the additional limitation being imposed that the bonds or other obligations issued for this purpose shall be payable and paid within one year from the date of issue.

#### HIGHWAY DEBT.

In November, 1905, the Constitution was amended by the insertion of section 12 of Article VII, which authorized the creation of a debt for the improvement of highways and provided that the aggregate of the debt authorized by this section should not, at any one time, exceed the sum of \$50,000,000. It also provided that none of the provisions of section 4 of this article should apply to the debts for the improvement of highways thus authorized by section 12. Seven years later, in 1912, an additional \$50,000,000 of bonds were authorized by referendum under section 4 of Article VII. These \$100,000,000 of bonds for highway improvement have thus been authorized under two different sections of the Constitution, one of them providing for a referendum to the people and the other authorizing the issue of bonds without further authority from the people than that conferred by the enactment of section 12. Under section 12 it would also seem evident that the original debt of \$50,000,000,



distribute equitably the payment of the debt over a period of fifty years.

2. The proposed amendment requires the future appropriation from the general fund of money to pay the interest on existing debts, notwithstanding the fact that more than \$25,000,000 has already been taken improperly from the general fund for this purpose. No further demands ought to be made upon the general fund for sinking fund purposes until this large amount improperly taken in excess of the legal requirement has been used for the purpose for which the sinking funds were created under the provisions of the Constitution.

3. Its adoption would compel the levy next year of an unjust direct tax of \$11,000,000 which ought not to be levied, since it is conceded by everyone familiar with our sinking funds that the excess in the different funds can be used for the payment of the interest upon the bonds without in any way affecting the security of the investment or in any way violating the provisions of the Constitution. Indeed, the excess has been collected unjustly from the present taxpayer and we ought as near as possible cure this injustice by giving the present taxpayer the benefit of this excess.

4. For the reason that while the report favors the serial bond method for future State debts, the proposal for the amortization of the present funded debt does not include or adopt the principle upon which the serial bond system is based.

Briefly, the history of the principal sinking funds is as follows: The first issue of bonds for the barge canal consisted of \$2,000,000 3 per cent 18-year bonds. By an adjustment made in 1914, the sinking fund now equals the principal and its earnings meet the interest charges from year to year. The next sinking fund for barge canal bonds was created to provide for the payment of \$21,000,000 of 3 per cent 50-year bonds authorized by an amendment to the Constitution in 1905. Instead of raising a tax as provided by the Constitution to provide a sinking fund for the bonds issued under this authority, the Legislature levied a tax rate of .481 of a mill upon the entire valuation of the State upon the theory that a sinking fund should be created for the entire authorized issue of \$99,000,000 whether the bonds had been actu-



bonds. What is true of the barge canal sinking funds is also true of the barge canal terminal sinking funds, of the Cayuga and Seneca sinking funds and the Palisades Park sinking funds so that the unnecessary amount in the several funds as stated by the Comptroller in his report to this Convention is as follows:

The surplus or excess of available resources over the reserves calculated in accordance with the method stated in the balance sheet, Exhibit A, as of April 30, 1915, was \$28,904,706.05, classified as follows:

Canal Debt sinking funds.....	\$20,671,850 68
Highway Debt sinking funds.....	8,136,684 81
Palisades Interstate Park Debt sinking funds..	96,170 56
Total.....	<u>\$28,904,706 05</u>

The report of the Finance Committee accompanying their proposal condemns the creation of this large excess in the several sinking funds and admits that it was placed there improperly and through an error in judgment and not through any requirement of the Constitution. Nevertheless, their proposal does not permit the use of any of this excess for the purpose for which it was created, and the Committee gives as its reasons for not relieving the taxpayer by the use of these funds in excess of the requirement that the purchasers of the bonds knew of the existence of these abnormal sinking funds and that it would therefore be a violation of good faith on the part of the State to use them and consequently would impair the credit of the State. The contention of the Committee in this regard is not convincing because the purchasers of the bonds also knew what the constitutional provisions for sinking funds were and purchased the bonds with that knowledge. So far as impairing the credit of the State is concerned, for two years in three different sinking funds the State has, through the Legislature, made use of a portion of this excess and there has been no impairment of the credit of the State because the sale of bonds subsequent to this action of the Legislature produced the greatest premium that the State ever received and furthermore since this action of the Legislature, the value of the State bonds involved has increased and not decreased.

The Committee also leaves open the question of the legality of using any part of the sinking fund. Without attempting to discuss that question, the fact that the Committee itself proposes in the future to use a part of the excess destroys the force of that contention. The other reason for not using any part of the excess in the sinking funds, which is set forth by the Committee, is that the highway bonds are fifty-year bonds while the highway improvement will last only a few years, and the Committee contends that for that reason future taxpayers will be burdened with a tax for which they received no benefit equal to the tax which the present taxpayers have been obliged to pay by the creation of the excess in the sinking funds. This contention of the Committee is made on the assumption that the highway improvements last for four or five years in some cases and then are lost to the State. The fact is that poor judgment on the part of the Highway Department caused the construction of a considerable number of State roads which could not endure for more than six or seven years. They have also constructed many roads which ought to endure during the life of the bond, but in the case where the improvement is short-lived the present taxpayer has to provide out of the general funds of the State each year money to place these roads which will be used by the future taxpayer with the same enjoyment and benefit as if they were originally constructed in permanent form, the future taxpayer will only pay his portion of the debt.

It will be noticed by examining the Comptroller's report to this Convention, which is Document No. 18, that there is now in the sinking funds a total of \$40,568,351.32 available, according to the report, for both interest and principal of the debt; that of this sum of \$40,568,351.32 there is an excess over the reserve required of \$28,904,706.05. It is my contention that this excess should be applied to the purpose for which the several sinking funds were created, namely, the payment of principal and interest. In that way we can avoid next year a direct tax of over \$11,000,000. I particularly urge this action at this time, not only because it is just to the present taxpayer who has paid







Strike out in line 7 the words "to existing conditions" and insert in lieu thereof the following " , according to varying conditions,".

Strike out in line 8 the words "comfort" and "general".

Strike out in line 9 the word "employees" and insert in lieu thereof the words "any class or classes of persons or the public generally".

which report was agreed to, and said proposition ordered reprinted as amended, and referred to the Committee of the Whole.

The object of this Proposed Amendment is to enable the Legislature to delegate some of its power.

The complexity of modern industrial conditions is such that it is impossible for the Legislature, in dealing with them to have in mind their great variety and to deal with each of them adequately and fairly. This results in laws which are unnecessarily harsh in their application to some conditions and which affect others which they were not intended to affect.

While the Legislature may now authorize the making of rules and regulations and in that way delegate some of its functions, it may only "delegate the power to determine some facts or state of things upon which a statute makes, or intends to make, its own action depend." 8 Cyc. of Law and Practice. p. 830; Ruling Case Laws, Sec. 179.

It cannot delegate powers which are "inherently and exclusively legislative." *Village of Saratoga Springs v. Saratoga Gas, Electric Light and Power Co.*, 191 N. Y. 123, at p. 133. The result of this is that rules and regulations cannot be formulated to deal with some situations as to which a board or commission can, as a practical matter, better determine what should be done than can the Legislature.

For instance, the Court of Appeals has held that it was a delegation of "inherently and exclusively legislative" power, and therefore unconstitutional, to insert in the one day of rest in seven law a provision exempting "employees, if the Commissioner of Labor in his discretion approves, engaged in the work of any industrial or manufacturing process necessarily continuous in which no employee is permitted to work more than eight hours in any calendar day", \* \* \* "because of the attempt which the Legislature has made to delegate its power to the Commissioner of Labor". *People v. Klinck Mfg. Co.*, 214 N. Y., at p. 138.



those to whom it delegates the power as it sees fit, and would presumably reserve the right to annul at any time any action taken under such delegation of power.

HERBERT PARSONS,  
*Chairman,*  
*Committee on Industrial Interests and Relations.*

Mr. Parsons, from the Committee on Industrial Interests and Relations, to which was referred Proposed Amendment introduced by Mr. A. E. Smith (No. 196, Int. No. 195), and Proposed Amendment introduced by Mr. Parsons (No. 419, Int. No. 407), both of which relate to the power of the Legislature to prohibit manufacturing in dwellings, reported as follows:

The Committee on Industrial Interests and Relations recommends the passage of Proposed constitutional amendment (No. 419, Int. No. 407), entitled "Proposed constitutional amendment to amend Article III of the Constitution, in regard to the power of the Legislature to prohibit manufacturing in structures used for dwelling purposes," without amendment. which report was agreed to, and said Proposed Amendment referred to the Committee of the Whole.

There is question whether the police power of the State as declared by the courts is extensive enough to prohibit manufacture in dwellings. This is due to the decision of the Court of Appeals, in *Matter of Jacobs*, 98 N. Y. 99, where an act which prohibited the manufacture of cigars in any part of any floor which was occupied for the purposes of living, sleeping, cooking or doing any household work in a tenement house was held unconstitutional and in which Judge Earl, writing the opinion of the court, said (at p. 113):

"To justify this law, it would not be sufficient that the \* \* \* manipulation (of tobacco) may be injurious to those who are engaged in its preparation and manufacture; but it would have to be injurious to the public health. \* \* \* It cannot be perceived how the cigarmaker is to be improved in his health or in his morals by forcing him from his home with its hallowed associations and beneficent influences to ply his trade elsewhere \* \* \* What possible relation can cigar making in any buildings have to the health of the general public? \* \* \*"

Earlier in the opinion the court had said of the cigarmaker (p. 104):







ment, to amend Article V of the Constitution by adding a new section thereto in relation to public service commissions;”

Fifth: Proposed Amendment introduced by Mr. Hinman (No. 655, Int. No. 639), entitled “Proposed constitutional amendment, to amend the Constitution by adding a new article creating public service commissions and prescribing their jurisdiction, powers and duties;” and

Sixth: Proposed amendment introduced by Mr. Landreth (No. 708, Int. No. 688), entitled “Proposed constitutional amendment, to amend Article V of the Constitution in relation to the public service commission, its powers and duties;”

Reported by Proposed Amendment, entitled “Proposed constitutional amendment, to amend Article V of the Constitution by adding a new section thereto relating to public service commissions” (Int. No. 706), which was read twice, and said committee reports in favor of the passage of said proposed amendment, which report was agreed to and said proposition ordered printed and referred to the Committee of the Whole.

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#### MINORITY REPORT

Mr. Kirby presented the following minority report:

*To the Convention:*

The undersigned hereby dissents from the report of the Committee on Public Utilities, relative to the office of Public Service Commissioners, and gives the following reasons therefor:

First: That the continuation in office of the commissioners in the Second District at the present salary of \$15,000 each, and at a greater salary than judges of the Court of Appeals and justices of the Supreme Court, except in the first department, should not be tolerated.

Second: That the proposal of the committee does not prevent the Legislature from further raising the compensation of the commissioners.

Third: That the right to review, and the extent and manner thereof, of the decisions and orders of the commission should not be left to the Legislature but should be fixed by the Convention.

THOMAS A. KIRBY.





During that period the American Negro, at the beginning of the period fully as incapable of self government as the Indian, has passed from slavery and dense ignorance to good citizenship and comparative intellectuality. Indeed, when the American Indian in this State was an intelligent, independent, and, in a measure, self governing individual, the American Negro was much lower in the scale of civilization, and was a slave. The reason for the progress of the Negro, and the stagnant condition of the Indian is not hard to find. One associated with the white man, was governed by his laws, later had the benefit of these laws conferred upon him, and was compelled to know and obey them; the other, treated as a child, left to his own devices and government, in doubt as to his allegiance and rights under our laws, has drifted along without an object and without hope as to his future. Ultimate citizenship has been the cry of presidents and governors in their recommendations, of commissioners of the Federal Government and of this State, for nearly a century; while the method of government of the Indians in New York during all that time has tended in exactly the opposite direction.

In 1888, the Legislature of this State appointed a commission, of which Mr. Whipple of this Committee was Chairman, to investigate and report on almost every phase of the State Indian problem. This Commission performed its duties with thoroughness, and made a report in January, 1889, covering in detail and with the greatest fullness and accuracy, all questions relating to the lands, moral and social condition, government and needs of the Indians, and collecting in the report the treaties, laws and contracts which relate thereto. This report, commonly known as the Whipple report, among other things, made the following recommendation:

(4) "The repeal of all existing laws relating to the Indians of the State, excepting those prohibiting the sale of liquors to them and intrusion upon their lands, the extension of the laws of the State over them, and their absorption into citizenship."

Practically nothing has been done by the Legislature in pursuance of such recommendation.

In 1905, the Legislature appointed another Committee to inquire and report upon the powers of the State to legislate for the

Indians, and what, if any, additional legislation was needed. This Committee, for which Mr. Ray B. Smith of this Convention was counsel, took evidence upon the various reservations and elsewhere, and in 1906 made its report. Both the Whipple Commission and this Committee strongly condemned the Indian courts, the law conferring upon the peacemakers of the Seneca Indians on the Allegheny and Cattaraugus reservations exclusive power over marriage and divorce, and the unsettled condition of the Indian with reference to our laws and the jurisdiction of our courts. Still nothing has been done.

Our present Indian laws are substantially as they were enacted from 1813 to 1849, except that the exclusive power over marriage and divorce was conferred on the peacemakers' courts of the Allegheny and Cattaraugus reservations by Chapter 374, Laws of 1859. Very few of these laws are of a general nature applying to all Indians within the State. The Indians on the Tonawanda, Allegheny and Cattaraugus reservations have peacemakers' courts; the two last named have Surrogates' Courts, and the Tonawandas have not; the peacemakers' courts of the Allegheny and Cattaraugus reservations have exclusive jurisdiction over marriage and divorce, and the Tonawandas have not. The Tuscaroras, Onondagas, St. Regis, and Shinnecocks have no courts of any kind. The power to contract is conferred upon all Indians, and then nullified in the same section by a provision forbidding any person to sue an Indian of the Tonawanda or Seneca nation or Onondaga tribe upon any contract under heavy penalties, leaving the St. Regis, Tuscarora, Oneida and Shinnecock Indians open to such suits. The statute extends the State laws as to marriage and divorce to all Indians, and in the same section excepts those on the Allegheny and Cattaraugus reservations. This report cannot be extended to indicate all these anomalies and contradictions in our present Indian law.

At the present time in the great State of New York, on the Allegheny and Cattaraugus reservations, two ignorant Indians, called peacemakers, may at the request of an Indian, release him from his wife, and set her adrift without provision or remedy, and without any trial, except an informal hearing. She may appeal to the Indian Council, but the evidence shows it seldom acts. She cannot have any relief under our laws or in our Courts.

It is a piece of patchwork, out of date, and its worst features enacted to suit the whims of certain classes of the Indians. The evidence taken by the various commissions, as well as communications from the better class of Indians who desire some relief from present conditions, show conclusively that the present commission is a failure, its policy is one of neglect, indifference, craftiness, immorality, and retarding the development of

to take some drastic action. It is not as to how far the State Committee is convinced that there is a part of the State, in practical Government has not as yet that the Federal Government, to govern the Indians within the limits of the State, has not freed them in the possession of the land, and the commission of certain crimes of a kind that is not in their contracts with the State, but never them. On the other hand, the State has passed laws for their gov-

ernment and control, which have been approved by the Courts. In consolidating the laws of this State in 1909, the schedule of laws repealed shows about 160 chapters of Indian enactments running from 1779 to 1902, as repealed; so that the State has always assumed to act, while the Federal Government, for over a hundred years, has been content to withhold such action for the Indians of this State.

Ordinary justice requires that the Indian should be recognized in our Constitution, that he be guaranteed the protection of our laws and the process of our courts to enforce his rights. Experience shows that legislatures shift the responsibility to Committees of Investigation or to Congress, and when the Federal Government fails to act, as it has always done, the matter is abandoned and forgotten.

The amendment proposed is not intended to affect, nor can it in any way affect, the tribal lands of the Indians, nor does it interfere with the maintenance of their tribal relations. Its object is mainly to insure to the Indians justice among themselves by



to extinguish the Indian title; but purchases from the Indians were to be void unless approved by a superintendent appointed by that State and confirmed by it.

Massachusetts made various transfers of its rights to individuals and associations, and thus has divested itself of these rights, except the right to be represented at any extinguishment of the Indian title; and by contracts made with the Indians by these various assignees, with the consent of Massachusetts, New York and the United States, this preemptive title has been extinguished as to all the lands except those of the Allegheny, Cattaraugus, and probably about 1920 acres of the Tuscarora reservations. The remainder of the Tuscarora lands, 4329 acres, the Tuscarora nation owns in fee.

The Oneidas own 400 acres of land which they hold in severalty.

The Cayugas now have no lands in the State.

The Shinnecock Indians own 400 acres on Long Island in fee. They are largely a mixed race, few of them being full blood Indians.

The St. Regis Indians have 14,030 acres of land in Franklin County, the title to which is in the State, and the right of occupancy and possession in the tribe.

The Onondaga Indians have 7300 acres near Syracuse; the title to which is in the State, and the right of occupancy and possession in the tribe.

The Tonawandas have 7548 acres in the Counties of Erie and Genesee which they purchased, and the title to which is now in the State Comptroller of this State and his successors in office in trust for the tribe.

The Seneca Indians have 30,469 acres on the Allegheny reservation and 21,680 acres on the Cattaraugus reservation, the title to which is in the Seneca nation, subject to the preemptive right of what is popularly known as the Ogden Company, upon the extinguishment of the Indian title.

The foregoing comprise all Indian lands in the State.

The only claim of the United States Government is that as general guardian or protector of all Indians, and its general right to make treaties with them, and under its treaties with the Senecas, no disposition of their lands can be made without its consent. It



because the United States Constitution nowhere prohibits it except as to treaties and regulations of commerce with the Indians. The

aimed by the Federal government for their protection. The various courts of the State, as witness *Farrington v. Smith*, 140 Wis. 589, have jurisdiction to appoint guardians of an insane person of a distinct tribe. Also, *Stacy and another v. State*, 100 N. H. 100, holds that State courts have jurisdiction to sue a man against an Indian on a contract made on a reservation. This last case is in which a State may act in the absence of Federal authority. See also, holding the same, 122 Ind. 541.

that where jurisdiction is not conferred on the Federal courts, our courts have jurisdiction.

*Terrence v. Gray*, 165 A. D. 636; *Matter of Printup*, 121 A. D. 322; *Peters v. Tallchief*, 121 A. D. 309.

Also that our laws of descent and distribution apply to Indians.

*Hatch v. Luckman*, 155 A. D. 765.

Our own Indian law provides that State courts have jurisdiction where it is not conferred on peacemakers' courts. Art. 2, Section 5. Indian Law.

It also provides that Indians are liable on contracts not prohibited by law, but immediately forbids any action on a contract against any Indian of the Seneca or Tonawanda nation, or Onondaga tribe, though making no such provision for the Tuscaroras, St. Regis, Shinnecock, or any other tribe.

It also provides that the State laws as to marriage, annulment, and divorce apply to Indians, and that the State courts have jurisdiction; and then confers these powers exclusively, on peacemakers' courts of the Allegheny and Cattaraugus reservations only, probably granting these unusual powers to them because they are







# STATE OF NEW YORK

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# IN CONVENTION

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## DOCUMENT

**No. 27**

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### MEMORIAL PRESENTED BY THE SOCIETY OF TAM- MANY OR COLUMBIAN ORDER TO THE DELEGATES OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF NEW YORK

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JUNE 16, 1915

Whereas, There appear to be, and in fact there are, certain interests and influences at work to alter, subvert and abridge those fundamental principles of free government which by reason of the sacrifices of our forefathers are the heritage and birthright of our people; and

Whereas, For more than a century the historic Society of Tammany or Columbian Order has been the constant defender and champion of the masses.

Now, therefore, we, the Council of Sachems of that ancient and patriotic society and in pursuance of the traditional policy of the Columbian Order, do respectfully submit this memorial.

First. We denounce, as opposed to and in contravention of the doctrines of liberty enunciated in the Charter of Liberties and Privileges drafted by the first Colonial Assembly of this State in 1683, all attempts to tamper with or change the right of trial by jury as it now exists. When, in the days preceding the formation of this Republic, the representatives of the people of the Colony of New York enacted that "All TRYALS shall be by the

which had selected him to wreak its private vengeance. Substitute for a Jeffreys an unscrupulous attorney selected by an insidious and powerful combination of money and monopoly, the greatest menace of modern society, and you have a possibility of injustice and tyranny which will all too soon ripen into a probability. The power of selecting judges should never be placed in the hands other than those of the people themselves. Therefore, and in no uncertain terms, we decry the effort to bring about the appointment rather than the election of judges. The influences which would tamper with our jury must not be permitted to steal our judiciary too.

Third. "Taxation without representation" still exists in this otherwise Excelsior State. We demand that you accord to the tax-burdened city of New York some measure of relief from its rural taxmasters; that our metropolis with its population of 5,000,000 receive that fair and just proportion of representation.

in the State Legislature to which its share of the task of maintaining the State entitles it.

This city of New York is and of right ought to be the free and untrammelled metropolis of the western world; and it is your duty to accord and grant it an unequivocal home rule so that we shall not be at the mercy of rural communities, who do not and in the nature of things cannot understand what is essential and necessary for its growth and welfare.

JOHN F. AHEARN,  
ASA BIRD GARDINER,  
WAUHOPE LYNN,  
GEORGE W. PLUNKITT,  
HENRY W. UNGER,  
WILLIAM DALTON,  
LOUIS F. HAFFEN,

CHARLES F. MURPHY,  
JOHN J. SCANNELL,  
THOMAS DARLINGTON,  
GEORGE W. LOFT,  
THOMAS F. McAVOY,  
EDWARD C. SHEEHY,

*Council of Sachems of the Society of Tammany  
or Columbian Order.*





Pr. No. 450, Int. No. 438, proposed by G. E. Greene.  
Pr. No. 492, Int. No. 480, proposed by Charles M. Dow.  
Pr. No. 584, Int. No. 569, proposed by E. M. Angell.  
Pr. No. 585, Int. No. 570, proposed by E. M. Angell.  
Pr. No. 586, Int. No. 571, proposed by E. M. Angell.  
Pr. No. 647, Int. No. 631, proposed by T. A. Leary.

*The Forest Preserve.*—As to the policy of the State in respect to the Forest Preserve, your Committee adopts the following language of the report of David McClure for the Committee on Forest Preserves, made to the last Constitutional Convention, under date of August 23, 1894, and reading in part as follows:

“That your Committee has reached the conclusion that it is necessary for the health, safety and general advantage of the people of the State that the forest lands now owned and hereafter acquired by the State, and the timber on such lands, should be preserved intact as forest preserves and not under any circumstances be sold.”





rules and regulations concerning fish, game, birds, snakes and crustacea, subject to the veto of the Governor. This power should not only lighten the load of the Legislature to a considerable extent, but also result in less confusion and better co-ordination of the fish and game laws, with increased efficiency and equity.

Regarding the personnel, civil service regulations are to be enforced, with the exception of the superintendent, emergency employees and laborers.

The existing provision permitting the use of three per cent. of the Forest Preserve for water storage purposes is retained without any change whatever, as is the provision that any citizen may bring an action for violations of the provisions of this article (the final clause of section seven).

To avoid inflicting hardships upon communities and individuals who have for years occupied lands now belonging to the State, the Department of Conservation is given discretionary power to issue licenses to occupants of that class. These licenses are revoca-



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ARY POWER OF THE CONSERVATION DEPART-  
MENT AS PROPOSED BY THE COMMITTEE ON  
CONSERVATION OF NATURAL RESOURCES

The undersigned members of the Committee on Conservation of Natural Resources, while in hearty accord with all the provisions of the majority report, disagree with the conclusion of the majority of the Committee that none of the restrictions of use in the present Constitution should be relaxed. We believe that the limitations in the majority report are too restricting in their effect upon the operations and do not offer an opportunity for the proper development of the State's natural resources.

The Committee has reported a plan for the organization of the department along lines which should insure continuity of purpose, free from partisan control, by men of high character, whose sole purpose will be to serve the best interests of the State in the preservation, the development and enhancement in value of its



they may more easily go there for health and recreation. The forests should not be locked from access to the majority of the people of the State. Such highways would, in addition, furnish the best possible fire protection because they would be broad fire lanes and besides would enable the forest rangers quickly to reach the locality of the fire and extinguish it before it has acquired headway.

II. The leasing of camp sites should be permitted for largely the same reasons. The Adirondacks and Catskills should be opened to the use of the people of the State by leasing to them camp sites of a limited area and for a limited time. This would not only be a means of substantial revenue to the State but would furnish during the time most needed a fire fighting force. Fires are less frequent where camps are occupied, for camp site lessees would become interested in seeing that no fires devastated their camps, and they would thereby furnish a great protection to the property of the State.

III. The State owns about 250,000 acres outside the Adirondack and Catskill parks in isolated areas where they serve no useful purpose but are a constant and increasing expense to the State. The Conservation Commission and practically every organization and individual in the State interested in this subject, have, for many years, advocated the sale of these lands and the devotion of the proceeds, estimated to be not less than \$1,000,000, to the purchase of other lands within the Adirondack and Catskill parks.

IV. Lands in the Adirondack and Catskill parks should be classified by the Conservation Department into areas as above outlined, one of which should be held as wild forest land, and the other as utilization forests.

The State owns approximately, 1,800,000 acres in the Forest Preserve, an area larger than the State of Delaware and about half the size of Connecticut. It is fair to say that 1,250,000 acres of this area are covered by heavy forest growth. The average annual growth is estimated by competent authority to be 200 feet per acre, or an aggregate annual wood crop of 250,000,000 feet of lumber, worth approximately \$1,000,000. This is now an absolute economic loss to the State, for an amount equal to the annual



should be retained as primitive forests for the recreation and aesthetic enjoyment of the people. I believe, however, that it would be equally unfortunate for the Constitution to prevent the people of the State from carrying out, after expert advice and public consideration, a policy of practical forest management on certain parts of the Adirondack lands or any other lands owned by the State where it is determined to be the highest use which can be made of that particular portion of the public holdings."

This is likewise the method proposed by the head of the New York State Forestry colleges at Syracuse and Cornell in numerous letters, and in testimony before the committee at its public hearings. It is also the method by which the Japanese government manages its forests, as stated by Mr. Nokai, a director of the natural forests of Japan, now on a visit to this country.

The last Democratic State platform, adopted in the year 1914, contains the following language:

"The Constitution, in relation to the preservation of forests, should be so amended as to permit a profit to the State, to be derived from the scientific preservation and cultivation of our forest lands, at the same time protecting them against exploitation by private interests."





the Camp Fire Club of America, by their sub-committees, at a joint meeting held in New York City July 16, 1914, voted in favor of the following proposed amendment to the Constitution:

“The prohibition of Section 7 shall not prevent the cutting or removal of [mature] dead or fallen timber or trees, detrimental to forest growth on lands constituting the Forest Preserve, nor the leasing of camp sites, nor the construction of roads and trails necessary for protection against fire and for ingress and egress. The Legislature may authorize the sale of lands outside the limits of the Adirondack Park and of the Catskill Park as such Parks are now established by law.”

In an editorial in the July, 1915, number of “American Forestry”, the official organ of the American Forestry Association of which Dr. Drinker, President of Lehigh University, is president, the following is stated:

“The prejudice against cutting of green timber is deeply ingrained in the minds of New York citizens, due to distrust of her politicians. The situation demands the complete elimination of politics from the management of the State forest lands. Should the Convention be able to accomplish this, they need no longer hesitate to permit cutting. On the Minnesota National Forest, the timber around the shores of the lakes and other points accessible to the public is preserved and protected although the Forest Service has the technical right to cut and remove it. Areas of especial value can be so classified, and preserved in their primitive condition. The remaining areas, inaccessible to the public, can be logged by methods which preserve the forest cover, secure reproduction and prevent waste from decay. These methods have been fully demonstrated on the National Forests. Must New York, through timidity, close her eyes to progress, and either lock up her forest resources, or imperil them with ill-considered half measures? Now is the time for the State to establish a sane and orderly administration which will bring the Adirondack forests to a plane equal to that of the wonderful Black Forest of Germany, which while serving as the recreation ground for the entire region, supports hundreds of villages and thousands of persons dependent entirely on the forest industries for their existence.”

The New York Evening Mail in its edition of July 27, 1915, in an editorial entitled “Tying Up the State Forests,” states its opinion of the report favored by the majority of this Committee in the following words:



It is also believed that the class of men, who will from necessity be selected as members of such a board, will be men of wealth, whose business interests require nearly all of their time and attention. That they, or many of them, will have little or no actual knowledge of the subject matter to be under their control, and no time or disposition to give it the constant, daily attention this intricate, many headed, difficult problem that is bounded by the limits of the State, demands.

That the conflicting opinions of the members of this large board, based upon insufficient knowledge will result in inaction and in the end will not produce good results.

The whole history of the department for more than twenty-five years, establishes the fact that such undesirable results follow when more than one man has been at the head of the commission. The large commissions have always been inefficient, and made little or no progress, responsibility has not been centered and they have never worked well.

The State has tried a commission of seven, then one of four, then one of three, then one of five, then one of four, then one of three, then a single commissioner, which form was continued until 1911, when a return was made to a three headed commission and after again trying that plan for four years we are back to a single headed commission.

An examination of the work in the department will disclose the fact, that there was more constructive work done under a single headed commission from 1903 to 1911, a period of eight years, than there has ever been done in a much longer time by any larger commission.

With this experience and this record it does not seem wise to the dissenting member of the Committee, that the State should again go back to a larger commission and especially when it is to be tied up for twenty years by a Constitution.

Further, the proposal is objectionable because the members of the board are to be asked to give their time, best services and best thought for a long period of years without pay. It sounds fine in theory but to work without pay never has and never will cause men to do their best for a considerable length of time.

It is objectionable because responsibility is not centered. It is objectionable because the Governor does not appoint the superintendent and have power to remove him. In fact such a board is just as objectionable from every standpoint as a like board would be for the Agricultural Department, the Highway Department and many other departments. It would be much like the verminiform appendix in man, useless, and should be cut off.

2nd. The majority proposition makes no provision for roads of any kind through this immense tract of forest land.

A park without roads in the right places, is of much less use to the people than it would be with proper roads.

What would have been thought when Central Park in the City of New York was established, if no roads had been provided for and the commission prohibited from making any?

In time, this wonderful woodland park will be to the people of the whole State what Central Park is to the people of Greater New York.

These parks and playgrounds of the people are for use. Easy

a ton for coal, while millions of cords of stove wood are in sight in dead and down trees, doing no good to any one and in many instances making a dangerous situation and opportunity for more fire.

4th. Dissent is made to that portion of the majority report that provides for permits, ratifying and making legal the occupancy on State land of five or six hundred people, who for years have been occupying the people's property without legal authority and in violation of the provisions of the Constitution. That proposition appears to be a proposed premium on doing wrong and to the exclusion of all those who obey the law and do right. It singles out a special class who have been violating the law, gives them special privileges and excludes all others from enjoying like privileges.

For the foregoing reasons this minority report is made and amendments to the majority report suggested in these particulars,



longing to the State located in the townships of Hurley and Shandaken in the county of Ulster and in the township of Lexington in the county of Greene, for just compensation.

§ 5. The legislature shall, for twenty years from and after the adoption of this Constitution, provide annually by bond issue or otherwise, the sum of not less than \$500,000 for the purchase of real property within the Adirondack and Catskill Parks, the reforestation of lands, and the making of boundary and valuation surveys. Such funds shall be expended by the Department of Conservation on the approval of the Governor.

§ 6. The legislature may provide for the construction of the State highway from Old Forge along the Fulton Chain of Lakes and thence to connect with a highway at or near the Saranac Lakes.

§ 7. A violation of any of the provisions of this article may be restrained at the suit of the people, or with the consent of the Supreme Court in Appellate Division, on notice to the Attorney-General at the suit of any citizen.

















assessment was raised from between 67 and 75 per cent. to approximately 90 per cent.

Until recently the State has not felt the strain of this disproportionate rise in expenditures because it has been able to meet them by its revenues from indirect taxation. But it has now become apparent that the limit of indirect taxation has been practically reached. Indirect revenues fell off \$1,900,000 from 1913 to 1914 and the Governor in his message of January 7, 1914, stated that in his opinion the maximum indirect revenue had been practically reached.

According to the report of the Census Bureau the governmental cost per capita of the State government of New York rose from \$2.47 in 1895 to \$5.41 in 1914, an increase of 235 per cent. where the population of the State had gained only 53 per cent. during nineteen years. During that period assessed valuations in the State rose only 171 per cent., including both of the fictitious









representing all phases of legislative and executive activity of the State including men who had held or still occupied the positions of Governor, Comptroller, Speaker and chairman of the principal committees of both houses of the Legislature. It has had before it men thoroughly familiar with those activities in the Federal government, including ex-President Taft and Mr. Fitzgerald, Chairman of the Committee on Appropriations of the House of Representatives. It has examined into the budget methods of the cities of this State and budget methods in vogue in Great Britain, Canada and other countries.

As a result, it presents its conclusions as to the chief defects in the present methods of financial legislation in the State of New York and finds that the following are the chief causes of waste and extravagance in those methods:







rent expenditures and revenues in past years.

(3) A proposition of the new measures of taxation, if any, which will be necessary to meet the proposed expenditures of the coming year.

To see how far short we fall now of having any such information available it is only necessary to recall the issue which arose last winter between the present State administration and its predecessor over the question as to whether a direct tax of \$18,000,000 was needed. When it is recalled how difficult it was for the ordinary citizen to determine the rights of a controversy over the necessity of a tax amounting to nearly thirty per cent. of the total revenues of the State, one can form some conception of the confusion of our present methods and the desirability of a complete annual budget responsibly prepared.





and individual interests, passing many appropriation bills with larger aggregate than they believed to be proper in reliance upon the hope that the Governor would afterwards prune them down to the proper dimensions. In other words, our attempt to accomplish by the use of the Executive veto what elsewhere has been accomplished by the legislative rule against additions to the budget mentioned under subdivision IV above, has very nearly resulted in an abandonment to the Executive of the priceless legislative function of holding the purse. Our Legislatures, instead of placing upon themselves during their own deliberations, a self-denying ordinance, like the rule of the House of Commons above mentioned, have left it to the Governor to make the necessary corrections afterwards.

Not only is our system an abandonment of essential legislative power, but it is open to other grave dangers to which a proper system would not be open. Instead of presenting his budget af

the beginning of the session, the Governor may be able to make it an instrument of punishment or reward. Instead of presenting a public plan of expenditures and revenue which can be subjected to the most searching scrutiny, and where an attempt to recommend expenditures for other motives than the interest of the State as a whole could be discovered and thwarted, the Governor exercises his veto power in a series of disconnected and isolated circumstances which make such a system less effective.

## VI

### THE PRESENT SYSTEM PREVENTS AN EFFECTIVE CRITICISM OF THE BUDGET BY PUBLIC OPINION

Finally, as a result of our present method the members of the Legislature are deprived of adequate opportunity to discuss questions in public concerning the estimates of the next year, and to discuss about them.

In those communities where the budget is presented by the Executive to the Legislature, it follows as a natural matter of course that the men who have prepared the estimates and the financial program present themselves personally before the Legislature to defend and to be examined about them. The Legislature thus has an opportunity to learn at first hand the purposes of the requests which are made and to understand the reasons for making them under such circumstances that the public has a clear conception of the strength and the weakness of the proposed budget. Such a method of public action produces results which are quite impossible in the present system of committee work which, at best, is conducted with little or no publicity.

### RECOMMENDATIONS

Your Committee has prepared and presented a proposed amendment which embodies its recommendations for the purpose of meeting the foregoing defects, of providing the machinery for a budget, and of providing the machinery for a budget. Your Committee is glad to report that in this

subordinates and will tend, in the opinion of your Committee, to increase the responsibility which such department head will feel as to his estimates.

*Second.—The estimates should then be revised and co-ordinated by a central executive authority*

Your Committee were unanimous in believing that these departmental estimates should be revised by a central executive authority before transmission to the Legislature. This is the nub of a real budget system. It means that that executive authority must be responsible for preparing and completing a consistent plan for the proposed expenditures of the State under which those proposed expenditures will be brought into proper relation to the expected revenues. It means that some central authority on the executive side of the government must take the responsibility of cutting down the estimates which are too high,



the budget. If the Comptroller were made a member of a budget board he would be committed to that budget and his subsequent criticism would be foreclosed and useless.

The amendment which your Committee submits, therefore, provides that the Comptroller shall receive a copy of the budget and that he shall have an opportunity thereafter to present his views in regard to it before the Legislature. This we believe to be the true function which he should play.

As to the Attorney-General, your Committee wholly fails to see what services he could render in the revision of the estimates. He is not a financial officer; he is not the superior of the departments who render the estimates, and to impose upon him such a duty would simply be an interference with his functions as chief law officer of the State and would impose a useless burden upon him.

















of Buffalo should be made a part of the Barge canal system, even though not enlarged to Barge canal capacity at present. Slips 1 and 2 in the City of Buffalo are needed for terminal purposes and should not be abandoned; and the inland Erie canal from Tonawanda creek to Black Rock Harbor, your Committee is decidedly of the opinion, should be saved as a part of that system in order to enable west bound boats with partial cargoes or without cargoes to reach Buffalo from Tonawanda creek without proceeding up Niagara River against the heavy current.

Under existing statutes the present Erie canal is preserved from Rome to Mohawk passing through the City of Utica. This was done because the Barge canal passes so far to the North of the manufacturing districts in that city that the expense to manufacturers of shipping by the Barge canal would be greatly increased if connection by the existing Erie canal, both east and west, were not retained. However, the saving of this part of the Erie canal in the City of Utica prevents the improvement of the









stitutions for the insane, but fully recognized the financial control of the institutions conferred upon the Commission by the Legislature in 1893 and the general administrative jurisdiction over the hospitals authorized by other statutes.

The Commission in Lunacy has had entire administrative and financial control of the State hospitals for the insane since 1893. You will observe that the provisions of the proposed amendment as submitted by this Committee merely continue the powers conferred upon the Commission in Lunacy by the Legislature prior to the amendments of 1894 and recognized in the Constitution at that time. Your Committee, after careful study of the administration of the hospitals for the insane, is firmly of the opinion that the present methods of management and control should be continued and should be clearly defined in the Constitution. The hospitals for the insane should be kept entirely out of the domain of politics and should not be liable to radical changes which, at the present time, may be made at any session of the Legislature.

As a result of several public hearings held by the Committee,



mission as constituted at the present time for twenty-six years.

The present method of administration was adopted by the Legislature after a careful investigation of the conditions prevailing in the State institutions, by a Senate committee.

The Charities Committee is therefore firmly of the opinion that there is not only no indication of a necessity of any change in the present method of government of the Department, but that any changes would be highly unwise and would seriously threaten the welfare of the insane wards of the State. To inaugurate a system of care in this State which has proved unsatisfactory in others would be highly disastrous.

We therefore urge upon the Convention the wisdom of continuing a form of government of the hospitals for the insane which has stood the test of the last twenty-six years and which seems to meet with the entire approval of the people of the State.

J. W. WADSWORTH,  
Chairman.



nate appropriations, for a century or more the Legislature of New York has been exercising a duty erroneously given to it. Even before New York became a State, the colonial governors sent over here by the King of England voiced the sentiments which this report now approves. But the early colonists did not approve it. All the statesmen who have since helped make New York the Empire State of the Union did not approve it.

The majority report states that "a real budget program presented by the Executive to the Legislature should receive and in other countries does receive criticism and suggestions, even from its own party members". I submit that the application of the word "Executive" as applied to the budgets referred to is not warranted by the definition of the word "executive" in any standard dictionary of the English language, and I further submit that in the principal countries referred to the "budget" is really a "parliamentary" and not an "executive budget".



States with good effect. Members of the Legislature intending to introduce special bills asking for appropriations should be required to file with the Governor, the Comptroller and the members of the Legislature within fifteen days previous to the convening of the Legislature a copy of the bill, stating the amount of money desired and the purpose for which it is to be expended. Fifteen days after the Legislature meets, it should be the duty of the Governor to submit a budget on these special bills with a message expressing his views thereon, just as the procedure proposed in the majority report provides in reference to matters of administration.

This treatment of special appropriation bills would certainly abolish the evil of which the report of the majority complains of permitting the Governor to reward friends or punish enemies by preference in the case of special appropriation bills.

In addition to a provision preventing the passage of any appropriation bill in the closing days of the Legislature, there should

be a provision forbidding the introduction after the Legislature has convened of appropriation bills of any kind except by a report of a financial committee of either House of the Legislature.

It is further recommended that special appropriation bills be not passed without a two-thirds vote of all the members elected.

It is further recommended that all items in appropriation bills be voted upon separately. This would insure the responsibility of action and the maturity of deliberation which the majority report emphasizes.

It is further recommended that a provision compelling the absolute itemization of every appropriation exceeding the sum of \$10,000 be adopted.

Respectfully submitted,

ROBERT WAGNER.





**STATE OF NEW YORK**

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**IN CONVENTION**

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**DOCUMENT**

**No. 36**

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**REPORT OF THE COMMITTEE ON CITIES, RELATIVE  
TO THE SEVERAL PROPOSED AMENDMENTS**

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AUGUST 5, 1915

Mr. Low, from the Committee on Cities, to which were referred the several Proposed Constitutional Amendments relating to Home Rule for cities, as follows:

- No. 719, introduced by Mr. Wagner.
- No. 187, introduced by Mr. Sanders.
- No. 774, introduced by Mr. R. B. Smith.
- No. 283, introduced by Mr. O'Brian.
- No. 535, introduced by Mr. Low.
- No. 335, introduced by Mr. Franchot.
- No. 381, introduced by Mr. Mann.
- No. 724, introduced by Mr. E. N. Smith.
- No. 568, introduced by Mr. Eisner.
- No. 629, introduced by Mr. Weed.
- No. 698, introduced by Mr. Cobb.
- No. 671, introduced by Mr. Green.
- No. 678, introduced by Mr. Franchot.
- No. 693, introduced by Mr. Berri.

No. 709, introduced by Mr. Fobes, reports that the Committee held a number of hearings on them and on the subject matter embraced in such Proposed Constitutional Amendments. It has also

widespread demand from the cities of the State, and especially from the city of New York, for increased power of self-government. This demand is based upon two principal causes of complaint: (1) interference with local affairs by the Legislature; (2) inadequate power over matters of city concern, even the most minute.

The relief demanded has been grouped concisely under two heads: First, power; second, protection. A proper proposal for Home Rule should in our judgment contain the following essentials, for which we have consistently contended:

*First.*—A BROAD GRANT TO CITIES OF POWER, EXCLUSIVE IN SUBSTANCE AS WELL AS IN FORM, TO REGULATE ITS LOCAL AFFAIRS, COUPLED WITH A PROHIBITION AGAINST SPECIAL LEGISLATION BY THE STATE WITH RESPECT THERETO.



#### CITY OR BECOME A HOME RULE CITY.

Home Rule should not be forced upon any community. There may be a sentiment in some cities against a change in the present system of city government. On the other hand other cities have expressed a desire for a change. Both can be satisfied. To subject the desire of either class to that of the other would be hostile to the very principle for which we contend. The grant, therefore, should be optional.

Considered in the light of these fundamental principles the proposal of the majority fails in the following particulars:

*First.*—No grant of exclusive power to cities is made except possibly as to a few minor matters which might be so held by the courts. The extent to which the control over officers and em-













an urban district. Experience for many years has demonstrated the necessity for annual registration in New York, as well as in the other large cities of the State. Many, however, believe that urban registration could safely be made less irksome and inconvenient to those who permanently reside in a district. If they actually voted there at the previous election, they should not be required to appear personally for registration but might be permitted to register by sending a verified notice of continuance of residence. Some such provision, if adopted, would avoid what is a needless inconvenience in the case of a large part of the electorate and would materially increase the urban vote.

The privilege of nominating elective State officers by means of delegate conventions is now denied by the Election Law; but it ought, in my opinion, to be recognized as essentially a constitutional right, which the legislature should not be at liberty to abridge. The right to assemble peaceably for the purpose of nominating candidates is certainly a political right of permanent importance and vital concern to all citizens, and it should be guaranteed by constitutional provision and not be left to constant







dates by delegate conventions involves in its essence the perpetuation of the fundamental principle of representative government and of the republican form of government which the Founders intended to establish and to guarantee to each State of the Union.

The one great contribution which the English-speaking race has made to the science of politics has been the representative principle. It has been truly declared that every lasting advancement made in politics during the past two centuries, every lasting liberty secured for the individual, and every lasting reform towards stability in government and permanent effectiveness in administration have been by and through the representative system. The subordination of public officials to the law and their liability under the law for every illegal act sprang from the representative principle. The independence of the judiciary, that great bulwark of liberty and of the rights of the individual, has followed upon the growth and success of the representative principle. The vivifying spirit and essence of that great principle are the deter-





thereof re. essential, if the representative principle is to be maintained, that executive officers should be nominated by duly qualified representatives.

Nomination of executive officers by direct primaries will inevitably be subversive of the true spirit of the representative system, and the secrecy of the vote in the nominating primaries will ultimately be destructive of all sense of responsibility. The enrolled voter marking his ballot in secret will frequently feel no sense of responsibility or accountability to his neighbors and fellow-citizens, and will frequently fail to appreciate that the vote is a sacred trust to be exercised for the good of the community. The secrecy of the primary vote thus does a great moral mischief in destroying the sense of political responsibility and accountability. A public declaration in connection with nomination for office, involving as it does a recommendation to other voters of fitness and qualification for the particular office, is a much more effective restraint on corruption and perversion of the popular vote than any scheme of secrecy which leaves no one publicly responsible for unfit and improper nominations. In my judgment, the primary system tends to promote the nomination of self-advertisers, demagogues and wire-pullers by irresponsible minorities, groups, factions, clubs, or secret societies, generally composed of persons acting mostly in the dark and unmonitored or controlled by leaders who cannot be held to any accountability, however much they may prostitute the political power they exercise.

The practice of nominating candidates for public office, whether national, state or local, by means of party conventions, caucuses, or assemblies, was introduced as it long existed without any statutory regulations. This practice sprang up normally and from necessity as the increase of population rendered it impracticable for the voters to come together in mass or town meeting. The body of voters, who could not spend the time necessary to investigate the qualifications of candidates or attend political debates, and who could know little or nothing of the qualifications and character of candidates, naturally recognized that the best and wisest course would be to elect delegates or representatives from each neighborhood, who, meeting delegates or representatives from other districts, could exchange views, criticize, discuss and



a vote in November of 5,604. It will be readily perceived from these figures that a very small minority of the voters in each party took the trouble to participate in the direct primary elections, even in the case of the nomination for Governor of our State, as to which there was an exciting contest in each party. An examination of the figures throughout the whole State will show that the voters in nearly all districts took no more interest in direct primary elections for nominations than they were accustomed to take under the old convention system and that the controlling power is still being exercised by the organization, but now acting in secret and utterly irresponsible. For example, the Republican primary vote for Governor in Bronx County was 5,276 against a Republican vote of 29,865 in November, and in Richmond County the Republican primary vote for Governor was 984 against a Republican vote of 5,477 in November. It is probably correct to assume that not one-half of the Republican or Democratic voters now enroll, and that, on the average, less than one-



only" in the manner provided in the law.

The conventions of the two great political parties held at Saratoga last year, at which the party platforms in respect of the approaching Constitutional Convention were adopted and fifteen delegates-at-large "recommended," were wholly unofficial and unregulated by law. What was practically the nomination by the conventions of candidates for delegates-at-large was unauthorized and operated only as a mere recommendation. They had to be nominated by petition as fully as if the conventions had never convened. These conventions thus nominated delegates because they realized and every thinking man in the State appreciated that it would be absurd to leave the selection and nomination of fifteen delegates-at-large to the mass of enrolled voters who would have



abuse or corruption which could not have been remedied by appropriate and intelligent legislation, or which could not have been prevented by action of the voters if the legislation of the past twenty-five years had been generally availed of by the majority in each party. The control of all nominations was in the hands of the majority if they had only taken the trouble to enroll and vote at primary elections for competent representatives. There is no practical remedy for abuse of power, fraud, or corruption in nominations for office but the participation in politics of all voters as a duty of citizenship. The notion that the direct primary would eliminate the professional politician and the boss has been shown to be false in every State where the scheme has been tried. Indeed, quite the contrary has been the result, and the last condition is worse than the first; for to repeat myself, manipulators, wire-pullers and political bosses now work in secret and by underground channels without any responsibility or accountability whatever, and are, nevertheless, able cynically to point to the direct primary as the expression of the people's





some systematic and practical method for investigating the competency of and selecting public officials; there must be stability, harmony and co-operation in governmental policies. These can only be secured in the long run by and through permanently organized and disciplined political parties. No other means has yet been discovered by which effectively to express political opinion, to secure stability in governmental administration and policies, and to effectuate the real and permanent judgment of the people and promote their best interests.

The President of the United States some years ago, in referring to attacks upon party government in the United States, used the following striking language, which I think I should be recalled:

“ I know that it has been proposed by enthusiastic, but not too practical, reformers to do away with parties by some legerdemain of governmental reconstruction, accompanied and supplemented by some rehabilitation, devoutly to be wished, of the virtues least commonly controlling in fallen human nature; but it seems to me that it would be more difficult and less desirable than these amiable persons suppose to conduct a government of the many by







who sent them and whom they represent, and face accountability and responsibility. How much more likely is such a proceeding to secure competent and honest candidates than the present system of leaving the voters at large to slip into dimly lighted booths and secretly place a cross on unidentifiable ballots! The convention system is sound and should be preserved; it alone will make our parties and form of government live, and in casting the representative principle aside, as is necessarily done in the direct primary system of nominations for state and judicial office, we are beginning a process which, if not checked, will end in what Lincoln called political suicide.

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#### REMARKS OF D. CADY HERRICK

THE CHAIRMAN.—Gentlemen, we will now hear from former Justice D. Cady Herrick.

JUSTICE D. CADY HERRICK.—Mr. Chairman and gentlemen: I don't know that I can add a great deal to what has been said from time to time upon the question of personal registration. I am only here because of the insistence and persistence of Mr. Saxe, who thought, perhaps, that because I had argued two or three cases in the Court of Appeals in relation to personal registration, possibly I know something about it that the rest of you do not. In that I think he is mistaken, but there are a few things that I might call your attention to which may possibly be new to some of you, possibly not.

The general subject of registration is considered at a good deal of length in the third volume of Lincoln's constitutional history of the State, which you have in your convention library, and which doubtless you resort to from time to time, so that it is needless for me to go into any discussion of this subject at any great length.

Of course, we all realize this, that it is of the greatest importance, under our form of government that our suffrage should be pure, that our elections should be honest; that only those who are honestly entitled to vote should be permitted to vote, and, for the purpose of insuring those results as far as possible our registration laws have been enacted from time to time.



who knows? They may be still entitled to vote there, although they are not on the same farm where they were employed this year. So that conditions I think in the country have largely changed from what they were years ago. We cannot go back very well to the old halcyon days when politics were pure in this State, and when they used to run the State barge up the canal with 25 or 30 people upon it, and vote at every election district as they went along, the elections continuing for three days, but we can return, I think, to some of the things that used to be done years ago.

We can enact a law which permits personal registration without the inconveniences that have been complained of so much, and which have prevented the enactment of laws for personal registration.









**REMARKS OF GEORGE W. WICKERSHAM**

**MR. WICKERSHAM.**—Mr. Chairman, I had not intended to speak this morning on the first part of the bill under consideration, but I should like to make a suggestion in passing, and that is with respect to the question of personal registration.

I have not had the privilege of listening to the discussions before the committee on this bill and, therefore, I don't know whether the suggestion has been made, but there is one perfectly conclusive method of identification for the purpose of determining the right to vote, and that is the thumb print. A registration by thumb print is so conclusive that the authorities who have studied that subject are of one accord and testify that, curious as it may seem, no two thumb prints have ever been found to bear the same tracery. So that the indisputable and conclusive method of determining the identity of an individual is found in the thumb print.

I was present a few days ago at a dinner when the police commissioner of New York was talking on that subject and he said that, a day or two before that occasion, a gentleman had come into the department and said that he was going abroad on business, and that it was essential, for certain business purposes, that he should establish the fact that he was in the city of New York on that particular day, and he asked to leave his identification thumb print in the police department so as to establish that fact conclusively and beyond any controversy, and his thumb prints were taken and recorded. The police commissioner said that there were no possible means of disputing the fact that the man who made that thumb print was at that office on that day and at that time.

Now, that would solve the problem with which I confess I have always had sympathy, i. e., the voter whose occupation carries him away from home at registration time. He may be a commercial traveler, he may be an employee of the government who is not able to come home and register, or who finds it burdensome to come and register as well as to come and vote. His identity could be established beyond any peradventure for purposes of registration by sending a registration card duly signed and identified with his thumb print.



**MR. WICKERSHAM.**— That is one thing.

**MR. J. G. SAXE.**— This does not prevent independent nominations.

**MR. WICKERSHAM.**— Then I withdraw my comment on it, because I am speaking of the right which is the traditional right inherited by us from our forefathers, which should be jealously preserved, to meet in convention, have our delegates chosen by an appropriate method which safeguards the right of the voter within the party to choose the delegate to assemble in convention, to nominate the persons for whom they desire to vote at an ensuing election.

**MR. J. G. SAXE.**— I agree with you absolutely on that proposition. My bill would be unconscionable if it prevented independent nominations.

**MR. WICKERSHAM.**— Then we agree upon that. There is no reason I think of why that traditional method should be impaired.









WHICH WORKMEN HAVE TO GO, OR TO THE CONDITIONS UNDER WHICH THEY must do their work.

The substances which are injurious to workmen are the metals, particularly lead, certain acids and soots.

Of the conditions of work which lead to disease, the best known is the so-called "bends", the disease of the sand-hog or caisson-worker.

It would be for the Legislature to enumerate the diseases for which compensation would be given.

Your committee submits that it is better draftsmanship to amend Section 18 in the manner now proposed than in the manner in which it is now done in Section 19, where it is supposed that Section 18 is amended by the provisions that the right to compensation under a workmen's compensation law is exclusive of other rights or remedies and that the law may provide that the amount of such compensation for death shall not exceed a fixed or determinable sum.

HERBERT PARSONS,  
*Chairman.*



able, in the judgment of this committee, that the Legislature should be left free to meet that problem in such manner as it sees fit after a full and complete investigation of conditions. It is apparent from the hearings had before this committee that one of the most likely remediable measures to be adopted will be the establishment of local municipal markets under governmental control, and it was clearly demonstrated that no such market could be useful without the ability to fix grades and qualities of food products dealt in thereon. Section 8 of Article V of the Constitution in its present form stands directly in the way of any provision for this useful function.

HERBERT PARSONS,

*Chairman.*

Mr. Parsons, from the Committee on Industrial Interests and Relations, to which was referred Proposed Amendment introduced

by Mr. A. E. Smith (No. 194, Int. No. 193), entitled "Proposed constitutional amendment to amend article 3 of the Constitution in relation to minimum wages," reported in favor of the passage of the same, with the following amendments:

In the title, strike out the word "minimum" and insert in lieu thereof the word "living", and after the word "wages", insert the words "to be paid to women and children".

In line 5, strike out the words "minimum or".

In line 6, strike out the word "or", and insert in lieu thereof the word "and".

which report was agreed to, and said Proposed Amendment ordered reprinted as amended and referred to the Committee of the Whole.

The number of poor persons in this State who are dependent upon public charity is markedly on the increase. In the year ending September 30, 1913, the number of persons supported in county, city and town almshouse institutions, or receiving temporary relief in the several counties of the State, was 403,991, and the expense therefor was \$8,401,318.43. This enormous expense was incurred in pursuance of our historic policy of having the State responsible for the poor, a policy which is now set forth in the language of Section 2 of the Poor Law, that "a 'poor person' is one unable to maintain himself, and such person shall be maintained by the town, city, county or State \* \* \*." The number of such persons who were objects of such public charity had increased 24 per cent. in number in the three years from 1910 to 1913, and the expense had increased 37 per cent. In the twenty years from 1890 to 1910, the number increased from 175,341 to 325,653, an increase of 85 per cent., and the expense increased from \$3,319,865.25 to \$6,096,958.95, an increase of 83 per cent., although the population of the State in the same period increased only 52 per cent. Legislation which will require that living wages be paid in industry is one method of checking and reversing this increase in number and expense.

To what extent in this State do employees receive less than a living wage, by which is meant a wage sufficient to supply the necessary cost of healthy living? We do not know. We do know, however, that there are many thousands. The State Factory In-

7 breakfasts and 7 dinners.....	2 00
6 lunches .....	90
Carfares for 6 days.....	60
Allowance for insurance and medical care.....	25
Dues, reading and amusement.....	50
Savings .....	25
	<hr/>
	\$8 00

Department store women are required to be neat in their appearance, so that the item of clothes is an important one. It will be noticed that the lunches average 15 cents each, and that if each breakfast averages 10 cents, each, there is not quite 20 cents for each dinner.

Insufficient wages mean that food is cut down below the level of healthy subsistence. This is illustrated by studies of family budgets. In a study of 200 families made some years ago in the Old Greenwich village section of New York city, it was found that in most families about a dollar a week for each person in the family not an infant was spent for food, except in the very poor

or more prosperous families, that in the week in which the rent was paid, the allowance for food was frequently cut down, and that if a new pair of shoes or a new coat was necessary for one of the children, the food was apt to suffer. The 23 families whose incomes were less than \$600 a year and who were independent of organized charity "were underfed, poorly clad and usually wretchedly housed." Most families lived from week to week. One hundred and fifty-three out of the 200 families had a deficit or just came out even at the end of the year. A family of this character is therefore "constantly on the verge of dependence — if not on the charity society — then on their relatives and friends, in case of any long unemployment or industrial depression."

Insufficient food means a weakened body, a less efficient worker and a greater predisposition to illness. Workers receiving such small wages have nothing to spend by way of preventing illness, and when it comes, nothing to spend to cure it. Less than living wages are therefore breeders of illness and dependency.

It cannot be definitely said that low wages lead to immorality. It is obvious, however, and investigation has confirmed it, that the temptations are less easily resisted when wages are insufficient.

The Factory Investigating Commission's investigation also showed that to raise 5,000 women in the large department stores who were receiving less than \$9 a week to the \$9 standard would mean an addition of only one-third of 1 per cent. in the selling price, and that to raise the mature women in the neighborhood stores to a wage of \$9 a week and girls under eighteen to a wage of \$6 a week, would only necessitate pricing articles at a full dollar instead of 99 cents.

Wages vary greatly. One department store paid 86 per cent. of its saleswomen \$10 or more, and another paid 86 per cent. less than \$10. There is a lack of standard of women's wages.

In principle, the living wage is not new. We apply it in government. Neither the Nation, the State nor any subdivision of the State offers employment to persons at the lowest wages they will take,— at wages insufficient for healthy subsistence. On the contrary, they fix wages which they believe will be fair. It would seem a stupid as well as inhumane policy for the State to employ

ployer to engage a woman to work excessive hours or under insanitary conditions, is it not equally against public policy to permit him to engage her for wages insufficient to provide the food and shelter without which she cannot continue in health? From the point of view of the employer one way of increasing his expenses is the same as another, while to those concerned with the public welfare, the permanent efficiency of industry, and the maintenance of national health, adequate food is at least as important as reasonable hours or sanitary conditions of employment.

Most employers desire to pay a living wage. No living wage legislation would be necessary to bring the small employer to pay living wages to the few people whom he employs and therefore well knows. His human interest in them assures them of living wages. In large industries, however, the employer knows little about his employees. His relation is not human; it is impersonal.





requirements of our labor laws in regard to sanitary conditions and protection against machinery. But in each case the good has far outweighed the burden.

If the Supreme Court of the United States shall hold that the minimum wage law of Oregon, the constitutionality of which has been argued before it, is not in violation of the provisions of the Federal Constitution, it may be that without this direct provision our own Court of Appeals would hold that such legislation is within the police power and not in violation of similar provisions of the State constitution, and there is encouragement for this view in the language used by Judge Miller in his recent opinion in the Jensen case. The Court of Appeals in the Ives case, however, flatly disagreed with the then recent definition of the police power given by the Supreme Court of the United States, and for that reason the Constitution should give to the Legislature the power to enact minimum wage legislation.

HERBERT PARSONS,

*Chairman.*

Mr. Parsons, from the Committee on Industrial Interests and Relations, to which was referred Proposed Amendment introduced by Mr. Parsons (No. 417, Int. No. 405), entitled "Proposed constitutional amendment to amend Section 19 of Article I of the Constitution, in relation to legislation affecting employees," reported as follows:

The Committee on Industrial Interests and Relations recommends the passage of the same without amendment.

which report was agreed to and said proposed amendment referred to the Committee of the Whole.

While the recent opinion of the Court of Appeals in the *Matter of Jensen*, Document No. 19, in which the present Workmen's Compensation Law is held not to be in violation of the Federal Constitution, may be considered to indicate that it is the intention of that court, in interpreting the police power and in construing due process clauses, to follow the lead of the Supreme Court of the United States, it is eminently desirable that this uniformity of decision should be made certain. This object is accomplished by the amendment. The legislation to which it refers would have to pass the test only of one due process clause, namely, that of the Federal Constitution, instead of two, which though identical in language have been construed differently by the Supreme Court of the United States and our own Court of Appeals. In the case of *Ives v. South Buffalo R. R. Co.*, 201 N. Y. 271, in which the former Workmen's Compensation Law was declared unconstitutional as in violation of Section 6 of Article I of the State Constitution, our Court of Appeals indicated that it differed in its construction of the due process language in the State Constitution and of its converse, the extent of the police power, from that of the Supreme Court of the United States in the case of *Noble State Bank v. Haskell*, 219 U. S. 104.

An attempt to lead to uniformity of constitutional decision was made by the Congress of the United States in the passage of the act of March 3, 1911, which amended section 237 of the Federal Judiciary Act so as to provide that the Supreme Court might review a decision of a state court which had held that a state statute was in violation of the Constitution of the

*Chairman.*



EXCEPT IN SOME SPECIFIC INSTANCES AND IN A FEW CASES, THESE agencies are independent of each other and not subject to the inspection, supervision or control of any superior authority, unless it be the Governor himself. It is manifestly impossible for the Governor personally to exercise direct supervision over such a multitude of agencies. They are, therefore, practically free from effective control. They cannot practically be held accountable for what they do, or fail to do.

#### THE PURPOSE OF THE COMMITTEE

The purpose of the committee has been to provide for a systematic plan of departmental organization; to simplify and coordinate the administrative machinery of the State; to subject every executive agency of the State government to practical accountability and to fix responsibility for the execution of the laws.

Your committee has conferred with the other committees having in charge related subjects and has sought to conform the













funds of the State. The two functions of the actor in financial transactions and the critic of the actor must be separated if there is to be efficient criticism. For this reason the proper functions of the Comptroller have been concentrated in the one officer, who, because of the nature of these particular functions, is to be elected by the people so that he may be independent of the whole executive government of which he is the critic and upon which he is the check, while the active functions of collecting and disbursing the moneys of the State have been vested in another officer who is called the treasurer as the head of the Department of Taxation and Finance.

In the extensive hearings before the committee, no one questioned the serious evils which have resulted from the defective organization of government in this State and no one suggested any general plan of improvement containing other general principles than those incorporated in this report. In the opinion of your committee the Convention must adopt such a plan as this in substance or must fail to give relief from the grave and unquestioned evils at which this plan is aimed.













ment, but I do disagree with the proposition that the Constitution should arbitrarily assign particular powers and duties to a department. Such an assignment must, in my opinion at least, necessarily imply a limitation on the power of the legislature to create a flexible administrative scheme to meet the practical necessities of government. This objection is not removed by the provisions of Section 19 of the proposed article which, among other things, provides that "the legislature may from time to time assign by law new powers and functions to officers, boards or commissions continued or created under this Constitution, and increase, modify or diminish the powers of such departments," for the reason that the power of the legislature in that respect is made subject to the limitations specifically defining the powers and duties of particular departments. I believe that the matter of reclassification and redistribution of powers should be left wholly with the legislature.







such removal and the cause thereof to the legislature at its next session. The superintendent of public works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the superintendent of public works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintendent shall be filled for the remainder of the term for which he was appointed, by the superintendent of public works; but in case of the suspension or removal of any such assistant superintendent by him, he shall at once report to the governor, in writing, the









missions thereof, not inconsistent with the provisions of this article which include particular powers and duties in the functions of a department or commission. Such distribution shall be made in such manner that no two or more departments or commissions shall have powers and duties relating to the same matter; but the legislature shall provide for the exchange of data, reports and information between departments and commissions where necessary to facilitate the work of any department or commission. Where state functions are or shall be exercised by local authorities with reference to a given subject, such authorities shall report and account to the department or commission having charge of the same subject. Except as otherwise expressly provided in this article, the legislature may continue existing offices, departments, boards and commissions or create new ones, but they shall be placed within and subordinated to the executive departments or



to agree with that part of it which would prevent the Legislature from imposing additional duties upon the Comptroller and with that part which would prevent the Legislature from establishing any other separate subdivisions of government than those specified in the committee's bill. I fear that such restrictions would constitute too much of a straight-jacket around governmental activity to allow for wholesome, natural growth.

I am also unable to agree with that part of the majority proposal which would increase the relative power of the executive by appointment instead of popular election of all other important State officers except Attorney-General, as a cure for the present evil extravagance. I believe the cause of extravagance was the continually increasing power of appointment given to the Governor until proper check and balance between Governor and Legislature were gone and the Governor and his appointees became over-powerful to push his "my policies" through the Legislature, he taking the credit for the new idea and the Legislature taking the

blame for the new expense. If this is the cause the remedy is sure. It is to restore genuine co-ordination by the simple expedient of electing more administrative officers. This will not only restore the lost balance but also increase popular watchfulness and interest. Agriculture, Highways, State Engineering, Public Works, Elections and similar matters which constantly stand out in plain sight of every voter of the State should have elective rather than appointive heads if the people are still to be self-governing and watchful and willing to come out at elections and competent to approve or disapprove the record of the party in power. I fear that to make the Governor all powerful would make of elections a worthless wrangle over personalities instead of great educational campaigns.

I fear still more the result of making the chief fiscal officer appointive.

Respectfully submitted,

GEORGE L. BOCKES.





well known to all practitioners. Delays in securing trial after a case is on the trial court calendars at the present time are not so great as they were a few years ago, and these delays, in the opinion of your Committee, are due in far larger measure to litigants and their attorneys, than to the organization and conduct of the courts. Nevertheless, even when both parties are ready and anxious for trial, it requires a period of from eight months to one year after a case has been placed upon the trial term calendar in the first judicial district and in several of the counties in the second and ninth districts before it can be reached for trial. About three months or less is required at special term in the counties of New York and Kings, and a somewhat longer time in other counties in the districts mentioned. In the Appellate Divisions of the Supreme Court, and in the Appellate Terms, in the first and second departments, cases may be reached for argument at the monthly term to which the appeal is taken; but in the first department, the volume of appeals and its continued increase are such,









involving questions affecting, not merely the citizens of that department but those of the entire State and of almost every other State and Nation. The average number of cases disposed of (not including original motions in the court) by the Appellate Division of the First Department in each of the five years ending 1904 was 1,032; during the five years ending 1914, 1,389. The number of appeals decided in 1904 was 1,053; in 1914 it was 1,534. Your Committee feels great doubt as to whether or not even a court of ten or twelve judges, five of whom are sitting continuously four weeks in every month, can dispose of such a volume of business, and it has therefore provided that the court may, should it find it necessary, sit in two parts, each composed of five justices, both under the direction of one Presiding Justice. It also proposes to authorize the Appellate Division to call in other justices from the Supreme Court for temporary service in case of the illness or absence of one of the regularly assigned justices. The provisions in the present Constitution authorizing the Governor to assign additional justices to



January 1, 1896. As a matter of fact, there is now an accumulation of more than 600 cases pending in the Court of Appeals, and the average time required between the date of filing return and the cause being reached for argument, unless it is entitled to a preference, is about two years. The Court has made up no calendar since May 4, 1914, and the calendar then made up embraced returns filed to April 20, 1914, only. The number of cases on that calendar was 714. During each of the five years ending 1914 the Court has disposed of on the average 671 cases, and the average number of returns filed has been 769, so that each year adds on the average 100 cases to the number accumulating in the court. Your Committee agrees with the statement of principle made by the Judiciary Committee in its report to the Constitutional Convention of 1894, in the following language:

“ Every State is bound to give its citizens one trial of their controversies and one review of the rulings and results of the trial by competent and impartial appellate tribunal. When



the Court; second, by providing that a majority of the Judges in each part of the Court shall be composed of members of the permanent court, thus reducing the probability of differences of view resulting in a divergence of opinion to the narrowest bounds of possibility, and third, by giving the Chief Judge control over both parts of the Court with power himself to sit in either of them.

Your Committee recommends the following modification in the general prohibition against the Court of Appeals reviewing facts in any case, viz:

Under the provisions of section 1317 of the Code of Civil Procedure, the Appellate Division on reversing or modifying a judgment is empowered to make new findings of fact and render judgment thereon. In such cases, the Appellate Division in effect acts as an original trial court, and unless a review is allowed in the Court of Appeals, the litigant is deprived of the right, conceded to all other litigants, of at least one full review upon appeal from the judgment of the trial court. With this ex-





ness within the county, upon causes of action arising within the county.

The existing Constitution prohibits a County Judge or Surrogate in a county having a population exceeding 120,000 from practicing as attorney or counselor-at-law or acting as referee. Much criticism has arisen respecting the effect of permitting County Judges and Surrogates in other counties to practice law. The opposition to making a general prohibition of the practice results from the unwillingness or inability of the counties to sanction legislative increase in the salaries of these officials to an amount which would compensate competent judges. After careful consideration, your Committee recommends an extension of the prohibition so as to apply to all counties having a population of 75,000 or upwards. This will result in extending it to thirteen additional counties, all of them prosperous and apparently abundantly able to adequately compensate such officials for the loss of opportunity to add to their salaries by private practice.











Dated August 12, 1915.

W. T. DUNMORE.









rules for the justice of the particular case. I agree with Mr. Brackett. I am old enough at the Bar to have the men who were my partners, my juniors, my clerks, sitting on the bench, and I look at them from a different angle from that which I can recall forty or fifty years ago when I looked up to those men high up above — they are men like the rest of us. But, my friends, they are honest and just. They want to do justice if they can be permitted to. They will do justice if they are permitted to. This network of meticulous rules that are made by our Legislature with honest purpose prevent them from doing justice in the particular case; and the people of our State and of our country understand this. They may not understand the details. They may not know why, but they feel that the pathway of justice is obstructed. They feel that the honest man would better lose his claim than go into court and spend his time and money in the law's



way. But if the judges make rules or amendments to the rules that do not on the whole seem to be right, at the next period, when the Legislature takes the subject up, it will put into its practice act a provision that will control the bad rule. This provision reported by the Committee is highly meritorious in that it compels the Legislature to act in the broad way upon procedure as a whole, and at the same time it enables the Legislature to control and correct any tendencies by the court to go wrong in either direction. I have seen and heard of no proposal to accomplish the thing that we clearly must accomplish which seems to be so effective as that proposed by the Committee.



Congress in dealing with river and harbor appropriation. The Congress requires the Chief of Engineers to certify before undertaking a given improvement that the river in question is worthy of improvement at the expense of the Federal Government at that time. Your Committee believes that the introduction of these methods of ordinary business prudence and foresight; to require the preliminary formulation of plans and estimates and the certificate of the responsible officer at the head of the department which has charge of State construction, will do far more towards checking excessive appropriations of this kind than the requirement of a two-thirds vote in the Houses of the Legislature.

Your Committee finds that under the present methods of the Legislature it is very easy for the two-thirds vote to be recorded without very great care being exercised to see that it was actually obtained and it finds further that popular legislators rarely have any difficulty in obtaining a two-thirds vote, irrespective of party

lines. It therefore believes that the protection suggested in the accompanying bill will be much more effective in obtaining the desired end and will still leave the Houses of the Legislature under the control of the majority required by ordinary parliamentary procedure.

Very respectfully submitted,

HENRY L. STIMSON,

*Chairman.*







lowing manner: First, to all Law Libraries and Public Libraries of the cities of the State; second, to all the leading Universities of the country and, third, the remaining copies, if any, to the State Public Libraries throughout the United States. In this way, the valuable information contained in these publications will be preserved for all time and will always be readily accessible.

The amount originally appropriated for the use of the Commission was ten thousand dollars to which amount five thousand dollars was added by subsequent legislation, together with ten thousand dollars granted by resolution of this Convention, making a total of twenty-five thousand dollars at the disposal of the Commission for the expenses of its publications.

Annexed hereto is a financial statement showing the manner in which the above mentioned amount has been expended. From this statement it will appear that the Commission has kept well within the total amount appropriated and has at present a balance remaining on hand. This statement is respectfully submitted to

this Convention for its approval, and the Commission also requests that the Convention authorize the distribution of the remaining copies of the publications in the manner heretofore mentioned.

The Commission takes this occasion to acknowledge its indebtedness to all the individuals, public officers and bodies who have so generously co-operated in furnishing the data and information for the various publications and, in addition to the acknowledgments made by the Commission, to publicly express its appreciation of all this invaluable assistance.

The Commission, therefore, respectfully requests that the Convention adopt the resolution submitted herewith, thanking those who have contributed to the publications which have been prepared and supplied to the Delegates of this Convention and which we trust have been of service.

Respectfully submitted,  
MORGAN J. O'BRIEN,  
*Chairman.*

*Commission:*

MORGAN J. O'BRIEN, *Chairman*,  
ROBERT F. WAGNER,  
EDWARD SCHOENECK,  
THADDEUS C. SWEET,  
SAMSON LACHMAN,  
JOHN H. FINLEY.

NEW YORK STATE CONSTITUTIONAL CONVENTION COMMISSION.  
FINANCIAL STATEMENT, AUGUST, 1915

Expenditures made from the sum of \$15,000 appropriated by Laws 1914, chapters 261 and 530, and by Laws 1915, chapter 201, for material relating to the State in general.

Publication No. 1

Lincoln's Constitutional History, 181 sets at	
\$9.50 per set .....	\$1,717 50

Publication No. 2

New York State Constitution Annotated, Parts	
I and II	
Printing 1,000 copies.....	1,051 50

Academy of Political Science.....	1,000 00
Binding 150 copies, Parts I and II together in paper covers.....	22 50
Binding 850 copies, Parts I and II separately in flexible leather.....	510 00
Boxing 300 sets of Publications Nos. 4 and 5 and delivering 170 sets .....	64 00
Publication No. 6	
Interleaved State Constitution	
Printing 500 copies, binding 200 copies in flexible leather and 150 copies in paper .....	600 00
Publication No. 9	
Constitution and Government of the State of New York — An Appraisal	
Bureau of Municipal Research.....	733 85

Printing title page, letter of transmittal and binding 100 copies in flexible leather..	\$308 84
Proportionate share of secretary's salary.	720 00
Expended under secretary's direction for preparation of copy for Publications Nos. 2 and 6, proof-reading, etc., stenographic and typewriting work, clerical work in connection with secretary's office, and stamps .....	1,317 34
J. B. Lyon Co. for printing stationery, circular letters, etc.....	85 77
Thorpe's Constitutions, etc., 5 sets.....	10 50
Newspaper clippings .....	15 00
Dougherty's Constitutional History, 10 copies .....	25 00
Secretary's future expenses (estimated)...	50 00
Future transportation charges for delivering publications (estimated).....	400 00
Total .....	<u>\$14,482 80</u>

Expenditures made from the sum of \$10,000 appropriated by Laws 1915, chapter 624, for material relating to city and county government.

#### Publication No. 7

##### Government of the City of New York

Academy of Political Science.....	\$750 00
Binding 1,000 copies.....	300 00

#### Publication No. 8

##### County Government of New York

Printing 1,000 copies.....	2,359 43
Binding 1,000 copies in flexible leather...	300 00

#### Publication No. 10

##### City and County Government

##### 1. Monroe County

Printing 1,200 copies.....	156 14
Printing 200 copies in paper.....	2 00

the City of New York.....	2,111 11
Cost of services in connection with the preparation of the report on the Revenues and Expenditures of the Government of the City of New York for the five years, 1910-1914.....	1,363 77
Total .....	<u>\$8,975 62</u>





the political party dominant in the rural sections of the State, and to perpetuate the present oppressive control and interference in matters purely of local city concern.

It was suggested in the debate before the Convention on the proposal to strike out the present limitation of New York city representation in the Legislature that the grievance of the city against legislative dominance and interference in local concerns would be corrected by complete, full and adequate "Home Rule".

The "Home Rule" article advanced to third reading signally fails to accomplish this object. The provision of the "Home Rule" article permitting the Legislature by joint resolution to nullify any charter or important amendment thereto adopted by the city, throws the most important local problems of the city into the mill of State politics.

Respectfully submitted,  
(Signed) A. E. SMITH,







appointment over all others, even though such others may have received a higher standing. There is no reason why public offices should be filled by those whose attainments are mediocre and it would be far better for the State to adopt a system of pensions than to have its work poorly done by incompetent public servants. Probably it would be cheaper in the end. However, by adopting a rule which would raise the standard as above specified, so far as veterans are concerned, a method of reward would be achieved without an impairment of the civil service. This, however, should not be included in any constitutional enactment but left to the Legislature, and I therefore concur in the finding of the majority of the Committee.

(Signed) MARK EISNER.



Service employees to save them from unjust removal or "ripper" legislation; and (c) a preference be given to residents of this State in appointment and promotion; or should that be inexpedient, that only residents of the State be employed in its Civil Service.

ALBERT BLOGG UNGER,  
EUGENE LAMB RICHARDS.





victims of that crime. If the retention of the death penalty will cause the murders in this state to be any less in number than they otherwise would be, it should be retained. The practically unanimous testimony of those who are charged with the administration of the criminal law is that, in their opinion, this retention would have that effect.

Dated, Albany, N. Y., August —, 1915.

Respectfully submitted,

MORGAN J. O'BRIEN,  
J. G. SCHURMAN,  
GEORGE A. BUNCE,  
ALFRED G. REEVES,  
FRANCIS MARTIN.



scope of legislation and it has been deemed unwise to embody any such mandatory provisions in the Constitution.

Printed No. 452, by Mr. Coles.

Printed No. 544, by Mr. Bayes.

Your Committee has been very earnestly requested to report one or the other of these proposed amendments, particularly in view of the fact that provisions of a similar nature are to be found in former Constitutions of this State.

Your Committee direct attention to the language of our present Constitution on this subject which recognizes "such exemptions as are now or may be hereafter created by the laws of the United States or by the Legislature of this State." The Military Law of this State specifically prescribes that all persons exempt from

military service under the laws of the United States shall be exempt in this State. Congress has declared an express exemption in this regard by the Act of January 21, 1903. The exemption there provided, thus controls both the State Constitution and the State Military Law.

These proposed amendments have been under consideration by the Committee on Bill of Rights, as well as by your Committee on Militia and Military Affairs. Both Committees recognize and approve the underlying principle of religious toleration for which these amendments stand, but regard their enactment as unnecessary in view of the existing provisions of Constitutional and Statute Law above quoted.

Printed No. 435, by Mr. Curran.

This bill has likewise been under consideration jointly by your Committee on Militia and Military Affairs, and your Committee on Bill of Rights. A difference of opinion has developed. While the Committee on Bill of Rights have reported this measure favorably with a slight change in phraseology, your Committee on Militia and Military Affairs disapprove the same. There are many civilians employed to accompany a military force. All such civilians are subject to Articles of War and regulations governing the military forces. They are triable by Courts Martial. To deny Military Courts this jurisdiction would substantially destroy discipline. This is true with reference to civilian teamsters, civilian clerks, civilian mechanics, civilian farriers, civilian hostlers and many others who are as much a part of the military force for the purpose of its mission as are the officers and soldiers who constitute its military personnel. There are many military offenses which do not constitute a crime under the provisions of our penal law, and it would be difficult to determine how such offenses could be dealt with, if the jurisdiction of disciplinary courts were removed.

Respectfully submitted,

ALMET R. LATSON,  
*Chairman.*





proper accountability to the people, and a short ballot. It would be an improvement, I believe, in state administration if the executive responsibility was centered in the governor, who should appoint a cabinet of administrative heads accountable to him and charged with the duties now imposed upon elected state offices."

Following that message from Governor Hughes, to whom the people of this State look with respect and honor, a resolution for the amendment to the Constitution was introduced in the Assembly of 1910. That resolution provided for the appointment of all State officers, except the Governor and the Lieutenant-Governor.





deserve) public examination ”

“And be it further Resolved, that, in compliance with this principle, we urge the representatives of the Republican party of this State, in the Senate and Assembly, to support a resolution providing for the submission to the people of an amendment to the constitution, under which amendment it will be the duty of the Governor to appoint the secretary of state, the state treasurer, the comptroller, the attorney-general, and the state engineer and surveyor, leaving only the Governor and Lieutenant-Governor as elective state executive officers.”

That resolution, I say, after full discussion was unanimously adopted by the 970 representative Re-







executive branch of our government."

After that, Mr. Chairman, came the report of the Committee on Resolutions, and Mr. Brackett submitted a minority report, taking substantially the position which he has taken here. That minority report was read, and it was argued at length. Amendments were offered and discussed. Mr. Brackett, I repeat, was heard at length upon it, in what he then called the "great council of the party," and he was beaten; beaten fighting manfully for his opinions, but he was beaten. The Republican party went to the people at the coming election upon the declaration that it was in favor of applying the principle of the short ballot to the selection of executive officers.



of them, declared to the people that they were for the principle of this bill? In the first place, our knowledge of human nature shows us that the thousands of experienced men in these conventions and meetings had come to the conclusion that that principle met with the opinion of the people of the State. It is all very well for Mr. Quigg to tell us what the men he met in Columbia county said, for Mr. Green to write letters to his friends in Binghamton, but 970 men in that mass meeting on the 5th of December told you what their observation was, that they would commend their party to the people of this State by declaring this principle. A thousand and odd men in the Republican conventions of 1912, 1913 and 1914 have given proof conclusive of what their observation of public opinion was. A thou-





now gone far toward redeeming itself and us from that disgrace, and the government of American cities to-day is in the main far superior to the government of American States. I challenge contradiction to that statement. How has it been reached? How have our cities been lifted up from the low grade of incompetency and corruption on which they stood when the "American Commonwealth" was written? It has been done by applying the principles of this bill to city government, by giving power to the men elected by the people to do the things for which they were elected. So I say it is quite plain that that is not all. It is not all.

I am going to discuss a subject now that goes back to the beginning of the political life of the oldest man







our State.

Mr. Chairman, there is a plain old house in the Oneida hills, overlooking the valley of the Mohawk, where truth and honor dwelt in my youth. When I go back, as I am about to go, to spend my declining years, I mean to go with the feeling that I have not failed to speak and to act here in accordance with the lessons I learned there from the God of my fathers. God grant that this opportunity for service to our country and our State may not be neglected by any of the men for whom I feel so deep a friendship in this Convention.



Page 9, line 36, after the word "senator";  
Page 9, line 37, after the word "senator";  
Page 9, line 37, after the word "senators";  
Page 10, line 32, after the word "supervisors";  
Page 10, line 32, after the word "or";  
Page 11, line 23, after the word "district";  
Page 11, line 24, after the word "which";  
Page 11, line 25, after the word "districts";  
Page 11, line 33, after the word "time";  
Page 11, line 33, after the word "towns";  
Page 11, line 37, after the word "legislature";  
Page 11, line 37, after the word "body";  
Page 11, line 41, after the word "apportionment";  
Page 17, line 34, after the word "time";  
Page 24, line 35, after the word "powers";  
Page 25, line 27, after the word "treasurer";  
Page 25, line 29, after the word "office";  
Page 43, line 40, after the word "of";  
Page 43, line 40, after the word "exceed";





used.

The words "constitute a quorum" which is the expression commonly employed, have been used in place of the words "form a quorum". (See page 33, line 31; page 34, line 10.)

Where the salary of an officer is specified the expression "annual salary" has been employed instead of the expression a specified salary "per year", in order to make the language in this respect uniform. (See page 37, lines 1 and 2.)

The prevailing expression used in the constitution in designating the month and the day of the month is, for instance, "the first day of January" and not "January first". The former expression has been used in the proposed draft of the constitution for the sake of uniformity. It seems unnecessary to call attention to these changes in detail.

Likewise, the prevailing expression in designating the year is, for instance, "one thousand nine hundred and fifteen" and not "nineteen hundred and fifteen". The latter has been used in the recent amendments made to the constitution of 1894, but the committee feels that in a formal document like the constitution of the state it is well to follow the expression "one thousand nine hun-



Page 21, lines 30 and 31, the words "and the comptroller" have been stricken out and the comma after the word "governor" and the word "and" has been inserted after the word "governor", because the comptroller has been made the head of one of the departments of the state government.

Page 22, line 37, after the word "the" the words "head of the" have been inserted and the words "administered by" have been stricken out to make the expression uniform with the other subdivisions of section 2 in designating the head of the department.

Page 33, line 15, the word "whom" has been changed to "which" to correct an obvious grammatical error.

Page 20, line 11, the word "their" has been changed to "its", to correct a grammatical error.

Page 41, line 12, after the word "sessions" the words "in and" have been inserted to perfect the reference to the "court of general sessions in and for the city and county of New York" which is the name of the existing court.

Page 48, line 39, and page 49, line 1, the words "state commission of highways" have been stricken out and the words "super-













Section 12. All lands within this state are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

Section 13. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

Section 14. All fines, quarter sales, or other like restraints upon alienation, reserved in any grant of land hereafter to be made, shall be void.

Section 15. No purchase or contract for the sale of lands in this state, made since the fourteenth day of October, one thousand seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid unless made under the authority, and with the consent of the legislature. The peacemakers' courts of the Tonawanda nation, the peacemakers' courts and surrogates' courts of the Seneca nation and all other agencies of the Indian tribes and nations in so far as they exercise judicial



Section 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant of this state one year next preceding an election, and for the last four months a resident of the county and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the state, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

Section 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to



vide. This section shall not apply to town meetings or to village elections.

### ARTICLE III.

Section 1. The legislative power of this state shall be vested in the senate and assembly.

Section 2. The senate shall consist of fifty members except as hereinafter provided. They shall be chosen for two years. The assembly shall consist of one hundred and fifty members, who shall be chosen for one year.

Section 3. The state shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive. The senate districts shall remain as at present constituted until altered as hereinafter provided.

Section 4. Such senate districts shall be so altered by the legislature at the first regular session after the return of and based upon the state enumeration taken in the year one thousand nine













of voting;

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which such officers are elected or appointed;

Granting to any corporation, association or individual the right to prove a claim against the state or against any civil division thereof;

Authorizing any civil division of the state to allow or pay any claim or account;

Granting to any corporation, association or individual the right to lay down railroad tracks;

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever;

Granting to any person, association, firm or corporation an exemption from taxation on real or personal property;

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the state.

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its



of such members and elected in such manner and for such period as is or may be provided by law. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen or other legislative body of the city. Provided, however, that the legislature, by general laws, may establish different forms of government for counties not wholly included in a city, any such form of government to become effective in any county only when approved by the electors thereof in such manner as the legislature may prescribe.

No local or special law relating to a county or counties except to a county or counties wholly included within a city shall be enacted except upon request, by resolution, of the governing body of the county or counties to be affected.

Section 26. The legislature shall, by general laws, confer upon the boards of supervisors, or other governing bodies, of the several counties of the state such further powers of local legislation and administration as the legislature may, from time to time, deem



ation. He shall communicate by message to the legislature at every session the condition of the state, and recommend such matters to it as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed.

Section 5. The governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.





reconsidered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

## ARTICLE V.

Section 1. On or before the fifteenth day of November in the year one thousand nine hundred and sixteen and in each year thereafter the head of each department of the state government except the legislature and judiciary, shall submit to the governor itemized estimates of appropriations to meet the financial needs of such department, including a statement in detail of all moneys for which any general or special appropriation is desired at the ensuing session of the legislature, classified according to relative importance and in such form and with such explanation as the governor may require.



commission.

(6) The head of the department of state shall be the secretary of state. He shall be the keeper of the great seal and of the records and archives of the state, shall issue writs of election and certify the results.



be created hereafter. Any bureau, board, commission or office hereafter created except assistants in the office of the governor shall be placed in one of the departments enumerated in this article. The elective state officers in office at the time this constitution takes effect shall continue in office until the end of the terms for which they were elected. Pending the assignment of the civil administrative and executive functions by the legislature pursuant to the direction of this section, the powers and duties of the several departments, boards, commissions and offices now existing are continued. Subject to the power of the legislature to reduce the number of officers, when the powers and duties of any existing office are assigned to any department, the officers exercising such powers shall continue in office in such department, and their term of office shall not be shortened by such assignment.

Section 4. The heads of all the departments and the members of all commissions unless otherwise provided in this constitution shall be appointed by the governor and may be removed by him in his discretion.





















any year after the present accumulation of causes in the court of appeals shall have been disposed of as above provided, there shall be more than five hundred causes pending undisposed of on the calendar, the court shall in the manner above provided designate justices of the supreme court to serve as associate judges of the court of appeals, and shall sit in two parts; the pending causes shall be distributed between the parts for disposition until the number of causes pending on the calendar shall be reduced to one hundred, but not later than until the expiration of one year from the date of such designations, whereupon the justices so designated shall return to the supreme court.

In case of the death, resignation or other disability of any of the justices of the supreme court designated to serve as associate judges of the court of appeals as in this article provided, the court of appeals shall designate a justice of the supreme court to serve in his place in like manner as if originally so designated. Each of the justices of the supreme court while serving as associate judge of the court of appeals as herein provided shall receive from





of the supreme court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the legislature or the people, shall be void.

Section 13. Judges of the court of appeals and justices of the supreme court may be removed by concurrent resolution of both houses of the legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the senate, on the recommendation of the governor, if two-thirds of all the members elected to the senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

Section 14. No person shall hold the office of judge, justice of any court or surrogate longer than until and including the last day of December next after he shall be seventy years of age. Each



not exceed one for every two hundred thousand, or major fraction thereof, of the population of such county. The additional county judges whose offices may be created by the legislature shall be chosen at the general election held in the first odd-numbered year after the creation of such office. All county judges, including successors to existing judges, shall be chosen by the electors of the counties for the term of six years from and including the first day of January following their election. Except as in this article otherwise provided county courts shall have the powers and jurisdiction now prescribed by the legislature, and also original jurisdiction in actions for the recovery of money only, where all the defendants reside in the county, and in which the complaint demands judgment for a sum not exceeding three thousand dollars. The legislature may hereafter enlarge or restrict the jurisdiction of the county courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which (1) the sum demanded exceeds three thousand dollars, or (2) in which any person not a resident of the county is a defendant, unless such defendant have an office













partment shall have power to appoint and to remove a clerk who shall keep his office at a place to be designated by such justices. The clerk of the court of appeals shall keep his office at the seat of government. The clerk of the court of appeals and the clerks of the appellate divisions shall receive compensation to be established by law and paid out of the public treasury.

Section 24. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office; nor shall any judge of the court of appeals, or justice of the supreme court, or any county judge or surrogate hereafter elected in a county having a population exceeding one hundred and twenty thousand, practice as an attorney or counselor in any court of record in this state, or act as referee. The legislature may impose a similar prohibition upon county judges and surrogates in other counties. No one shall be eligible to the office of judge of the court of appeals, justice of the supreme court, or, except in the county of Hamilton, to the office of county judge or surrogate, who is not an attorney and counselor of this state.



time by law forbid the contracting of any further debt or liability under such law.

Except the debts specified in sections two and three of this article, all debts contracted by the state after the second day of November, one thousand nine hundred and fifteen, pursuant to an authorization therefor, heretofore or hereafter made and each portion of any such debt from time to time so contracted irrespective of the terms of such authorization, shall be paid in equal annual instalments, the first of which shall be payable not more than one year, and the last of which shall be payable not more than fifty years, after such debt or portion thereof shall have been contracted. No such debt hereafter authorized shall be contracted for a period longer than that of the probable life of the work or object for which the debt is to be contracted, to be determined by general laws, which determination shall be conclusive.

The legislature may from time to time alter the rate of interest to be paid upon any state debt which has been or may be authorized pursuant to the provisions of this section or upon any part of such debt, provided, however, that the rate of interest shall not







lease nor the use of waters thereunder shall in any way injure, impair, interfere with, or endanger navigation or the construction, use, maintenance, operation or safety of the canals or of other property of the state. Each lease shall be for a stated period not exceeding thirty years and shall reserve to the state the right, whenever in the opinion of those having charge of the management and operation of the canals the needs of navigation require it, to terminate or suspend the same and to regulate or alter the amount of water to be used thereunder, together with the corresponding compensation therefor, without incurring liability upon the part of the state.

Section 11. No tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. All contracts for work or materials on any canal shall be made with the persons who shall offer to do or provide the same at the lowest

price, with adequate security for their performance. No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the canal board may, upon the application of the contractor, cancel such contract.

Section 12. The canals may be improved in such manner as the legislature shall provide by law. A debt may be authorized for that purpose in the mode prescribed by section four of this article, or the cost of such improvement may be defrayed by the appropriation of funds from the state treasury, or by equitable annual tax.

## ARTICLE X.

Section 1. The power of taxation shall never be surrendered, suspended or contracted away, except as to the securities of the state or a civil division thereof. Hereafter no exemption from taxation shall be granted except by general laws and upon the affirmative vote of two-thirds of all the members elected to each house.

Section 2. Taxes shall be imposed by general laws and for public purposes only. The legislature shall prescribe how taxable subjects shall be assessed and provide for officers to execute laws relating to the assessment and collection of taxes, any provision of section two of article thirteen of this constitution to the contrary notwithstanding. The legislature shall provide for the supervision, review and equalization of assessments.

Section 3. For the assessment of real property, heretofore locally assessed, the legislature shall establish tax districts, none of which, unless it be a city, shall embrace more than one county. The assessors therein shall be elected by the electors of such districts or appointed by such authorities thereof as shall be designated by law. The legislature may provide that the assessment roll of each larger district shall serve for all the lesser tax districts within its boundaries. No such tax district larger than a town, except a city, shall be established until the law providing therefor shall have been adopted by a vote of a majority of the electors voting thereon in such proposed district at an election for which provision shall be made by law. The legislature may, however, provide for the assessment by state authorities of all the property of designated classes of public service corporations.



granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

Section 5. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation, issuing bank notes of any description.

Section 6. The legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.



of January, one thousand nine hundred and ten, to provide for the supply of water, shall not be so included; and except further that any debt hereafter incurred by the city of New York for a public improvement owned or to be owned by the city, which yields to the city current net revenue, after making any necessary allowance for repairs and maintenance for which the city is liable, in excess of the interest on such debt and of the annual instalments necessary for its amortization may be excluded in ascertaining the power of such city to become otherwise indebted, provided that a sinking fund for its amortization shall have been established and maintained and that the indebtedness shall not be so excluded during any period of time when the revenue aforesaid shall not be sufficient to equal such interest and amortization instalments, and except further that any indebtedness heretofore incurred by the city of New York for any rapid transit or dock investment may be so excluded proportionately to the extent to which the current net revenue received by such city therefrom shall meet the interest and amortization instalments thereof, provided that any increase in the debt incurring power of the city

of New York which shall result from the exclusion of debts heretofore incurred shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes. The legislature shall prescribe the method by which and the terms and conditions under which the amount of any debt to be so excluded shall be determined, and no such debt shall be excluded except in accordance with the determination so prescribed. The legislature may in its discretion confer appropriate jurisdiction on the appellate division of the supreme court in the first judicial department for the purpose of determining the amount of any debt to be so excluded. No indebtedness of a city valid at the time of its inception shall thereafter become invalid by reason of the operation of any of the provisions of this section. Whenever the boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county, heretofore existing, shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

Section 12. The legislature shall provide for the method and limitations under which debts may be contracted by the cities, counties, towns, villages and other civil divisions of the state to the end that such debts shall be payable in annual instalments the last of which shall fall due and be paid within fifty years after such debt shall have been contracted and that no such debt shall be contracted for a period longer than the probable life of the work or object for which the debt is to be contracted.

Section 13. The legislature shall provide for a state board of charities, which shall visit and inspect all institutions, whether state, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions, hereinafter mentioned, but including all reformatories except

by the legislature. The visitation and inspection herein provided for, shall not be exclusive of other visitation and inspection now authorized by law.

Section 16. Nothing in this constitution contained shall prevent the legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education, of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the state board of charities. Such rules shall be subject to the control of the legislature by general laws.



as shall be provided by law. All other officers, whose election or appointment is not provided for by this constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as may be provided by law.

Section 3. When the duration of any office is not provided by this constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

Section 4. The time of electing all officers named in this article shall be prescribed by law.

Section 5. The legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

Section 6. Provision shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial,





shall be passed changing the existing mode of election and appointment unless two-thirds of the members present in each house shall concur therein.

Section 6. The commissioned officers shall be commissioned by the governor as commander-in-chief. No commissioned officer shall be removed from office during the term for which he shall have been appointed or elected, unless by the senate on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the sentence of a court martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of three months or more.

## ARTICLE XV.

Section 1. It shall be the duty of the legislature by general laws to provide for the organization of new cities in such manner as shall secure to them the exercise of the powers granted to cities in this article. Except as to cities having more than one hun-



legislature.

The legislature by general law shall provide for a public notice and opportunity for a public hearing by the legislative body of the city concerning any such amendment before final action thereon by it.

At the general election in the year one thousand nine hundred and seventeen, and unless its charter after one revision thereof shall otherwise provide, in every eighth year thereafter either at the general or at a special election, every city shall submit to the electors thereof, the question " Shall there be a commission to revise the charter of the city?" and may at the same time choose seven commissioners to revise the city charter in case the question be answered in the affirmative, provided, however, that in the city of New York the number of such commissioners shall be sixteen, nine of whom shall be chosen by the electors of the entire city, two by the electors of the borough of Manhattan, two by the electors of the borough of Brooklyn, and one each by the electors of the boroughs of The Bronx, Queens and Richmond respectively. Such revision when completed shall be filed in the office of the city



















SCHEDULE A

SOURCE OF ARTICLES OF CONSTITUTION OF 1915

CONSTITUTION OF 1915		CONSTITUTION OF 1894
Article	Subject	Article
1	Civil rights.....	1
2	Elective franchise.....	2
3	Legislature.....	3; 10 pt.; new pt.
4	Executive.....	4
5	Appropriations and the budget.....	new
6	State departments.....	5 pt.; new pt.
7	Conservation.....	7 pt.; new pt.
8	Judiciary.....	6 pt.; new pt.
9	State debts.....	7
10	Taxation.....	new
11	Corporations; municipal debts; state boards and commissions.....	8; new pt.
12	Education.....	9
13	Officers generally.....	10; 5 pt.
14	Military.....	11
15	Cities and Villages.....	12; new pt.
16	Official corruption.....	13
17	Constitutional amendments.....	14; new pt.
18	Time of taking effect.....	15

SCHEDULE B

DISPOSITION OF SECTIONS OF CONSTITUTION OF 1894

CONSTITUTION OF 1894		CONSTITUTION OF 1915		
Article	Section	Article	Section	Proposal
1	1.....	1	1.....	Amended. Proposal 870 Amended. Proposal 870
	2.....	1	2.....	
	3.....	1	3.....	
	4.....	1	4.....	
	5.....	1	5.....	
	6.....	1	6.....	
	7 (as am'd 1913)...	1	7.....	
	8.....	1	8.....	
	9.....	1	9.....	
	10.....	1	10.....	
	11.....	1	11.....	
	12.....	1	12.....	
	13.....	1	13.....	
	14.....	1	14.....	



**SCHEDULE B (Continued)****DISPOSITION OF SECTIONS OF CONSTITUTION OF 1894**

CONSTITUTION OF 1894		CONSTITUTION OF 1915		
Article	Section	Article	Section	Proposal
5	1.....	.....	.....	Repealed. Proposal 863
	2.....	.....	.....	Repealed. Proposal 863
	3.....	.....	.....	Repealed. Proposal 863
	4.....	.....	.....	Repealed. Proposal 863
	5.....	5	7 (new).....	Old. Rep. Prop. 857
	6.....	.....	.....	Repealed. Proposal 863
	7.....	.....	.....	Repealed. Proposal 863
	8.....	13	9.....	
	9.....	13	10.....	
6	1 (as am'd 1905)...	8	1.....	Amended. Proposal 850
	2 (as am'd 1905)...	8	2.....	Amended. Proposal 850
	3.....	8	4.....	Amended. Proposal 850
	4.....	8	5.....	Amended. Proposal 850
	5.....	.....	.....	Out. Proposal 850
	6.....	.....	.....	Out. Proposal 850
	7 (as am'd 1899)...	8	9.....	Amended. Proposal 850
	8.....	8	10.....	Amended. Proposal 850
	9.....	8	11.....	Amended. Proposal 850
	10.....	8	12.....	Amended. Proposal 850
	11.....	8	13.....	Amended. Proposal 850
	12 (as am'd 1909)...	8	14.....	Amended. Proposal 850
	13.....	8	15.....	Amended. Proposal 850
	14 (as am'd 1913)...	8	16.....	Amended. Proposal 850
	15.....	8	17.....	Amended. Proposal 850
	16.....	8	18.....	Amended. Proposal 850
	17.....	8	19.....	Amended. Proposal 850
	18.....	8	22.....	Amended. Proposal 850
	19.....	8	23.....	Amended. Proposal 850
	20.....	8	24.....	Amended. Proposal 850
	21.....	8	25.....	Amended. Proposal 850
	22.....	8	26.....	Amended. Proposal 850
	23.....	8	27.....	Amended. Proposal 850
7	1.....	9	1.....	
	2.....	9	2.....	Amended. Proposal 784
	3.....	9	3.....	
	4 (as am'd 1909)...	9	4.....	Amended. Proposal 784
	5.....	9	5.....	Amended. Proposal 784
	6.....	9	9.....	
	7 (as am'd 1913)...	7	2 pt.; 3; 6.....	Repealed. Proposal 852
	8.....	9	10.....	Amended. Proposal 845
	9.....	9	11.....	
	10.....	9	12.....	
	11 (added 1905)...	9	6.....	Amended. Proposal 784
	12 (added 1905)...	9	7.....	Amended. Proposal 784
8	1.....	11	1.....	
	2.....	11	2.....	
	3.....	11	3.....	
	4.....	11	4.....	

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NOTE.— The amendments submitted to and adopted by the people in 1905, to Art. 6, § 1; Art. 7, § 11; and Art. 12, § 1, were adopted by the Legislature in 1903. All other amendments by the people were adopted by the Legislature of the same year in which they were submitted.

SOURCES OF



OF 1915





**SCHEDULE C (Continued)**  
**SOURCES OF SECTIONS OF CONSTITUTION OF 1915**

CONSTITUTION OF 1915		CONSTITUTION OF 1894		
Article	Section	Article	Section	Proposal
8	20	.....	.....	New. Proposal 850
	21	.....	.....	New. Proposal 850
	22	6	18.....	Amended. Proposal 850
	23	6	19.....	Amended. Proposal 850
	24	6	20.....	Amended. Proposal 850
	25	6	21.....	Amended. Proposal 850
	26	6	22.....	Amended. Proposal 850
	27	6	23.....	Amended. Proposal 850
	28	.....	.....	New. Proposal 850
	29	.....	.....	New. Proposal 850
9	1	7	1.....	Amended. Proposal 784
	2	7	2.....	
	3	7	3.....	
	4	7	4 (as am'd 1909)...	Amended. Proposal 784
	5	7	5.....	Amended. Proposal 784
	6	7	11 (added 1905).....	Amended. Proposal 784
	7	7	12 (added 1905).....	Amended. Proposal 784
	8	.....	.....	New. Proposal 837
	9	7	6.....	Amended. Proposal 845
	10	7	8.....	
	11	7	9.....	
	12	7	10.....	
10	1	.....	.....	New. Proposal 834
	2	.....	.....	New. Proposal 834
	3	.....	.....	New. Proposal 834
11	1	8	1.....	
	2	8	2.....	
	3	8	3.....	
	4	8	4.....	
	5	8	5.....	
	6	8	6.....	
	7	8	7.....	
	8	8	8.....	
	9	8	9.....	
	10	8	10 pt. (as am'd 1909) .	Amended. Proposal 862
	11	8	10 pt.....	Amended. Proposal 862
	12	.....	.....	New. Proposal 862
	13	8	11.....	Amended. Proposal 827
	14	8	12.....	
	15	8	13.....	
	16	8	14.....	
	17	8	15.....	
12	1	9	1.....	
	2	9	2.....	
	3	9	3.....	
	4	9	4.....	

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Respectfully submitted,

ADOLPH J. RODENBECK,

*Chairman.*

LEMUEL E. QUIGG,

WILLIAM S. OSTRANDER,

CHARLES H. BETTS,

WILLIAM R. BAYES,

HARRY W. NEWBURGER,

TIMOTHY A. LEARY.

*Committee.*

February 9, 1915.

# STATE OF NEW YORK

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# IN CONVENTION

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## DOCUMENT

No. 53

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### REPORT OF SPECIAL COMMITTEE ON THE TIME AND MANNER OF SUBMISSION OF THE REVISED CONSTITUTION

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The Special Committee on the Time and Manner of Submission of the Revised Constitution respectfully report the annexed resolution, and recommend its adoption.

HERBERT PARSONS, *Chairman*,  
ELIHU ROOT, *ex officio*,  
JACOB BRENNER,  
D. R. COBB,  
FRANK L. YOUNG,  
DELANCEY NICOLL.

Dated, Albany, September 10, 1915.





it and obtain another."

If a majority of the electors voting on

**" QUESTION NO. 1**

**Revised Constitution**

Shall all of the Revised Constitution submitted by the Constitutional Convention not included in Questions 2 and 3 be approved ? "

shall make a cross mark in the square opposite the word " Yes " then the proposed Revised Constitution shall be the Constitution of the State of New York, except as the same may be modified by the result of the vote upon the second and third questions above specified.

If a majority of the electors voting on

**" QUESTION NO. 1**

**Revised Constitution**

Shall all of the Revised Constitution submitted by the Constitutional Convention not included in Questions 2 and 3 be approved ? "

shall make a cross mark in the square opposite the word " No " then all of the Revised Constitution submitted by Question No. 1 shall be declared rejected, and the present Constitution shall remain in force except as the same may be modified by the result of the votes upon the second and third questions above specified.

If a majority of the electors voting on

**" QUESTION NO. 2**

**Legislative Apportionment**

Shall the proposed amendments to Sections 2, 3, 4 and 5 of Article III relating to legislative apportionment be approved ? "

shall make a cross mark in the square opposite the word " Yes ", then the amended sections therein described shall be Sections 2, 3, 4 and 5 of Article III of the Constitution.

If a majority of the electors voting on

**" QUESTION NO. 2**

**Legislative Apportionment**

Shall the proposed amendments to Sections 2, 3, 4 and 5 of Article III relating to legislative apportionment be approved ? "

shall make a cross mark in the square opposite the word " No ", then the said amendments shall be declared rejected, and Sections 2, 3, 4 and 5 of Article III of the present Constitution shall remain in force and effect.



**“ Shall the proposed new Article X relating to taxation be approved ? ”**

shall make a cross mark in the square opposite the word “ No ”, then the said amendment shall be declared rejected, and if that part of the Revised Constitution submitted by Question No. 1 be approved, Articles XI, XII, XIII, XIV, XV, XVI, XVII and XVIII of the Revised Constitution shall be Articles X, XI, XII, XIII, XIV, XV, XVI and XVII thereof respectively.

Chapter 668 of the Laws of 1915 relating to the notice, distribution and publication of amendments to the Constitution submitted by the Constitutional Convention to the people for approval at the general election of 1915, is hereby approved and made the act of this Convention, and the Secretary of State, the Attorney-General and all other officers mentioned in said act are hereby authorized and directed to comply with the provisions thereof.

But no failure of notice, distribution or publication as therein provided shall invalidate or affect the submission of the said propo-

sitions to the people as hereinbefore prescribed or the results of their action thereon.

The provisions of the Election Law in regard to the counting and canvassing of votes on proposed constitutional amendments and questions submitted shall apply to the counting and canvassing of votes on the questions above specified except as herein otherwise provided.

The determination whether any of the three questions has received the number of votes requisite for the adoption thereof may be contested in the Supreme Court by any elector in an action in equity brought within three months after such election against the Secretary of State and the judgment rendered shall be reviewable by the Court of Appeals.



# STATE OF NEW YORK

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# IN CONVENTION

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## DOCUMENT

**No. 54**

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### REPORT OF SPECIAL COMMITTEE TO PREPARE AND REPORT A FORM OF ADDRESS TO THE PEOPLE

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#### *To the Convention:*

The Committee appointed pursuant to resolution adopted on September 3, 1915, to prepare and report to the Convention a form of address to the people of the State, beg leave to report the annexed proposed address and to recommend its adoption by the Convention.

GEO. W. WICKERHAM,  
*Chairman.*

SETH LOW.

A. T. CLEARWATER,

J. G. SCHUEMAN,

MORGAN J. O'BRIEN,

LEDYARD P. HALE.

Dated, Albany, September 10, 1915.

1. The first part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".



6. Authority in the Legislature, with the approval of the electors of such county, to provide for any county optional forms of government and prohibiting the passage of local or special laws relating to a county, except at the instance of its local authorities.

7. Reform in civil procedure in the courts of the State, and provisions affecting the organization and jurisdiction of the courts, designed to prevent delays in the administration of justice and to simplify litigation and make it less expensive.

8. State control over the assessment of taxes on personal and intangible property.

9. The protection of the natural resources of the State under a conservation commission.

10. Provisions for the benefit of wage earners by creating a department of labor and industry, by extending the benefits of the Workmen's Compensation Act to embrace occupational diseases, and by empowering the Legislature to regulate or prohibit manufacturing in tenement houses.

A number of other matters of only less importance than those above referred to also have been embodied in the proposed amendments.

I. The modifications we recommend in the organization of the executive department present to the people a plan for ending the present unsystematic, wasteful and irresponsible State government, under which its executive and administrative agencies are distributed among more than one hundred and fifty bureaus, departments, commissions, boards and officials. Many of these involve duplication of the work of others. We substitute for them a concentration of all such activities into seventeen departments. Of these, two, namely, the Departments of Law and Finance, are to be administered by the Attorney-General and the Comptroller, respectively; four, namely, the Departments of Labor and Industry, Public Utilities, Conservation, and Civil Service, are under the direction of commissions composed of one or more commissioners appointed for terms extending beyond that of the Governor. They are vested with both legislative and administrative functions. For these reasons, the con-





besides the actual railroad fare of the members paid in going to and returning from their homes not oftener than once a week during the session of the Legislature. An additional reason for this increase was furnished by the argument, earnestly pressed upon us, that many competent and desirable citizens cannot afford to become members of the Legislature at the present rate of compensation. We have also increased the salary of the Governor, after January 1, 1917, to \$20,000 a year, as more suitable to the dignity and responsibility of the office of Chief Executive of the State.

III. We have proposed a radical change in the method of providing for the necessary expenditures of the State. Instead of leaving the Legislature to make appropriations without any comprehensive and systematic study of the needs of the various departments of the State government, and the sources of its revenue, leaving to the Governor the power and duty after the adjournment of the Legislature to go over the appropriation bills and cut out items which appear to him to be unnecessary or improper, we have sought to restore the true American ideal which accords with the



lating to the property, affairs or municipal government of a city, except such as is applicable to all the cities of the State without classification or distinction, and we empower the Legislature to delegate to the cities, for exercise within their respective local jurisdictions, such of its powers of legislation as to matters of State concern as it may from time to time deem expedient. We also require the Legislature to provide for the method and limitations under which debts may be contracted by the cities, counties, towns, villages and other civil divisions of the State, to the end that such debts shall be payable in annual instalments, the last of which shall fall due and be paid within fifty years after such debts shall have been contracted, and in no event for a period longer than the probable life of the work or object for which it is to be contracted.

VI. We authorize the Legislature by general law to establish different forms of government for any county not wholly included within a city, to become effective only when approved by the voters of the county, and to confer upon any elective or appoint-



Court justices are to return to their court and the Court of Appeals is then to resume its normal condition as a single court. Similar provisions are made to deal with accumulations of cases in the future.

In order to facilitate impeachment of officers of the State in proper cases, we have provided that the Legislature, of its own motion, may convene to take action in the matter of the removal of a judge of the Court of Appeals or justice of the Supreme Court; that the Assembly, of its own motion, may convene for the purposes of impeachment, and that the court for the trial of impeachments may order all or any part of the testimony in any case to be taken and reported by a committee composed of members of the court, except that the impeached officer must be allowed to testify before the court if he so desire. Applying the principle that no man shall serve as judge in a cause in the outcome of which he has a personal interest, we provide that on the trial of an impeachment of the Governor or Lieutenant-Governor, neither the Lieutenant-Governor nor the Temporary President of the Senate shall act as a member of the court.



abandoned or neglected to support either.

To prevent the constant partisan political legislation affecting the court of claims, we have continued that court as a constitutional tribunal, with appropriate jurisdiction for the hearing and determination of claims against the State.

VIII. We recommend the adoption of a new article respecting taxation, which empowers the Legislature to prescribe how taxable subjects shall be assessed, and to provide for officers to execute laws relating to the assessment and collection of taxes, and for the supervision, review and equalization of assessments. We provide that the power of taxation shall never be surrendered, suspended or contracted away, except as to securities of the State or a civil division thereof, and that hereafter no exemption from taxation shall be granted, except by general laws and upon an affirmative vote of two-thirds of all the members elected to each house.

We recommend provisions under which the Legislature for the assessment of real property heretofore locally assessed may, with





stitution.

XIII. We leave unchanged the provisions in the present Constitution requiring the State to provide for the maintenance and support of a system of free common schools wherein all the children of the State may be educated, and forbidding the use of the property, credit or money of the State directly or indirectly for the aid or maintenance of any school or institution wholly or in part under the control or direction of any religious denomination.

XIV. We have not deemed it expedient to recommend provisions making more difficult the adoption of amendments to the Constitution; but in order that the attention of the public may be directed to any attempts at amendment, we have provided that in case any proposed amendment to the Constitution shall be adopted by either house of the Legislature, on the first Tuesday following such adoption, the two houses shall convene in joint session for the consideration thereof, and that thereafter the proposal shall be considered and acted upon by the two houses separately, and that such

proposal shall not be passed until after it shall have been printed and upon the desks of the members in its final form for at least five calendar legislative days prior to final action.

XV. Other provisions not herein specifically enumerated have been adopted by us as desirable amendments to the existing Constitution. We earnestly recommend all of these proposals to the favorable consideration of the electors of the State, believing that their adoption will result in a very great improvement in the government of the State and its civil divisions, and thus promote the welfare of all of its inhabitants.

Adopted in Convention, September 10, 1915.

ELIHU ROOT,  
*President and Delegate at Large.*

WILLIAM D. CUNNINGHAM,  
*Secretary.*



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